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INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

HEARINGS

BEFORE THE

TEMPORARY NATIONAL ECONOMIC COMMITTEE
CONGRESS OF THE UNITED STATES

SEVENTY-SIXTH CONGRESS

FIRST SESSION

PURSUANT TO

Public Resolution No. 113 **(Seventy-fifth Congress)**

AUTHORIZING AND DIRECTING A SELECT COMMITTEE TO
MAKE A FULL AND COMPLETE STUDY AND INVESTIGA-
TION WITH RESPECT TO THE CONCENTRATION OF
ECONOMIC POWER IN, AND FINANCIAL CONTROL
OVER, PRODUCTION AND DISTRIBUTION
OF GOODS AND SERVICES

PART 8

PROBLEMS OF THE CONSUMER

MAY 10, 11, AND 12, 1939

Printed for the use of the Temporary National Economic Committee



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TEMPORARY NATIONAL ECONOMIC COMMITTEE

(Created pursuant to Public Res. 113, 75th Cong.)

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¹ On file with the committee.

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

WEDNESDAY, MAY 10, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:38 a. m., pursuant to adjournment on Tuesday, May 9, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senators O'Mahoney, chairman, and Borah; Messrs. Henderson, Lubin, O'Connell, and Davis.

Present also: Mr. D. E. Montgomery, Consumers' Counsel, Agricultural Adjustment Administration; Milton Katz, Department of Justice; Wilford L. White, Department of Commerce; Willis J. Ballinger and Anderson Tackett, Federal Trade Commission.

The CHAIRMAN. The committee will please come to order.

The committee has requested Mr. D. E. Montgomery, Consumers' Counsel of the Agricultural Adjustment Administration, to take charge of the presentation this morning of the results of the consumer study which has been under way for some time by this committee. Are you ready to proceed, Mr. Montgomery?

Mr. MONTGOMERY. Yes, Mr. Chairman. I would like first, Mr. Chairman, to make an opening statement telling what we are going to do with this testimony, and what we hope to show.

STATEMENT BY D. E. MONTGOMERY, CONSUMERS' COUNSEL, AGRICULTURAL ADJUSTMENT ADMINISTRATION, WASHINGTON, D. C.

THE CONSUMER MOVEMENT

Mr. MONTGOMERY. Mr. Chairman and members of the committee, I wish briefly to explain who these witnesses are and why they have asked this opportunity to appear before you. Four of them, Mrs. Beleser, Mrs. Roller, Dr. Ayres, and Miss Campbell, are leaders in consumer organization work and are at the same time managers of family households. They will bring you the story, in its different parts, of the chaotic, uninformed, and unenlightened circumstances under which the average consumer must spend money for the service of family and individual needs. Mr. Masters is an officer of one of the major information services which consumers have set up in attempt to solve by their own devices the innumerable and perplexing riddles of the market place. He will further expound the consumer's spending problem, based upon his experience in serving 80,000 consumer families whose subscriptions support the service which he represents.

Following the direct consumer testimony you will hear the testimony of two manufacturers, Mr. Ephraim, who is engaged in business on a small scale, and Mr. Walker, who is associated with one of the largest manufacturing and distributing organizations in the world. Their testimony will tend, we anticipate, to confirm what the consumers have told you, approaching the same questions from the manufacturing and selling side of the retail transaction.

Mr. Maddux will testify as a professional, paid purchaser of consumer goods, based upon his experience as purchasing agent of Hamilton County, Ohio. A final witness will sum up the significant points in the testimony, particularly those that may relate directly to the further investigations and reports and recommendations of your committee.

All of these people come to you as persons qualified to speak for and of that growing development of popular interest which now is generally referred to as the consumer movement. I venture the prediction that this committee will hear the testimony of no witnesses who will discuss matters touching so directly and so intimately the immediate practical problems of all the homes and families of the Nation.

Everyone, as is stated so frequently, is a consumer. The consumer is everybody. That is not to say, however, that the consumer interest and the public interest are one and the same. They are not. The consumer's is a special interest, just as the interests of the wage earner, the employer, the professional man, the farmer, the taxpayer are special interests. The consumer's special interest turns upon the spending of his income for goods and services—what he gets for his money, how much money he spends to get it. This together with his occupational, taxpaying, voting, and sundry other interests make up the whole citizen. All of these interests of all citizens make up the public interest.

These spokesmen of the consumer movement come before you, therefore, as specialists in the expenditure of family and personal income. The movement for which they speak is nothing more nor less than the growing recognition of this money-spending interest on the part of rapidly increasing numbers of people. It began in 1927 when Stuart Chase and F. J. Schlink published a book called *Your Money's Worth* which stimulated among many people that curiosity about commodities which is, so to speak, the motive power of the consumer movement. With the increasing severity of the depression this interest spread rapidly and stimulated a great variety of activities, including a marked revival of interest and development of consumers' cooperation, a movement which had survived a long history of success and failure in earlier years.

The consumer movement has been sufficiently described and catalogued in print to require no detailed exposition at this point. Most recent of these descriptions is in the April 22 issue of *Business Week*, a monograph which describes the many angles and major current problems of the movement and states the case fairly from the business point of view, and, with one or two exceptions, from the consumer point of view also. Suffice it to note only that the consumer movement embraces a wide variety of programs, ranging from education on specific commodities and general education on consumer economics through many kinds of organized activity on various economic and

legislative fronts, and on to the development of cooperative purchasing of consumer goods on a large and well-organized business scale. No census of the consumer movement has been or could be attempted. It enters into the programs of many of the large organizations of women; it is reflected in the curriculum of hundreds of high schools and many colleges; in one way or another it must have brought millions of people within some phase of its educational or action program.

Rough estimates have been made of the number of people who have made some contact with the consumer movement. Such an estimate by the Crowell Publishing Co. last year said that more than 5,000,000 women in various organizations are affected by consumer educational material and are more or less active in efforts to secure legislation favorable to consumers. I am filing with the committee an excerpt from the *Journal of Marketing* of July 1938¹ which quotes this estimate and lists some of the organizations which have taken some part in the consumer movement. In addition, I might say, the most recent reports from Government sources indicate that more than 1,375,000 people are members of retail cooperative societies, including both the urban and the farm purchasing groups.

Running through all the varied aspects of the consumer movement is the central thread, its unifying principle, so to speak, which is its insistence that consumers be given opportunity to make sensible choices in spending their money for the ordinary purposes of living. This means that consumers want facts—facts about goods, facts about prices, facts about the comparative value and usefulness of commodities offered for sale. "The consumer wants to know." That is the main stem of the consumer movement. It has many ramifications reaching out into numerous special areas where the ultimate consumer comes into contact with the world he lives in.

One excursion of this organized curiosity deserves the special attention of this committee. A delegation of consumer leaders representing many thousands of consumers in their membership came to Washington 15 months ago to confer on questions of government and the consumer. A committee of this conference submitted to the President on February 24, 1938, a proposal that just such an inquiry as your committee is now engaged in be undertaken by the Congress.² I shall file a copy of the proposal which was submitted to the President on that day. I quote from it only the following [Reading from "Exhibit No. 503"]:

In our concern for production we have allowed it to exploit consumption and, in the process, to cripple its customers for whom, and for whom alone, it confessedly exists. * * * In a democracy no economic system makes sense which is not run so as to maximize consumption, yet our economic system is primarily run to maximize profits and the consumer takes the hindmost. * * * A major need at present is to put current business under the microscope to ask: How does it operate and, operating as it does, how and where does it promote or curtail the welfare of our people who live by it and its products * * *? Self-regulation at a round table must include self-regulation by the whole people through government participation. Government can play an effective role only if its policies are based upon an understanding of what is wrong and what needs to be done. The consumer can play an intelligent role at that table only when he knows the facts and how they affect him, and he is powerless to collect these facts himself.

¹ Subsequently entered as "Exhibit No. 504," see appendix, p. 3458.

² Subsequently entered as "Exhibit No. 503," see appendix, p. 3457.

While the aims of the consumer movement have very direct practical bearing on the every-day problems of the average American family, they bear also in a significant way upon the questions before your committee. Usually the theory and practice of competition in the business world is discussed in terms of the activities of business organizations. For example, are the business units in an industry competing in the sale and purchase of goods, or are they controlling their markets by combination, conspiracy, or otherwise? However, it should not be forgotten that the assumed virtues of competitive enterprise depend for their validity upon the belief that the public at large shall pass final judgment upon the goods and services which such enterprise produces. What I am saying is that in a system of free enterprise the choices which consumers make in the spending of their money provide the ultimate test of competitive virtue and distribute the rewards according to merit. Unless the consuming public is in a position to make this final judgment of approval or disapproval, there can be no assurance that business enterprise is serving the public interest. Insofar as consumers may not be able to know where their own interest lies in the selection of goods and services, they cannot exercise this power to shape the affairs of industry toward maximum satisfaction of their wants.

The present strength and vigor of the consumer movement derives obviously from the realization by a great and ever-increasing number of consumers that somehow they do not quite succeed in exercising this final judgment over the products of industry and commerce. They find themselves the subjects of a great mechanism of organized sales effort. They suspect that their wishes are not the sole determining factor of the kind and quality and price of commodities offered for sale. And, most important of all, they know that their choice between one kind of merchandise and another is necessarily determined in large part by prejudice, hunch, and ignorance, because the facts about merchandise upon which they might make an intelligent choice are not disclosed to them in terms that relate specifically to their needs as purchasers and users of commodities.

In the testimony which follows we propose to show you by examples in how many ways it is true that consumers cannot spend money intelligently to serve their own interests. We believe that we describe a general condition—confusion and disorganization of the market place at its retail level where commodities pass through the final transaction and into use. We believe that whatever else the committee may recommend to improve the functioning of economic affairs toward abundance, stability, and security, there can be no assurance that the benefits of such improvements will pass to the consumer in tangible and specific additions to the standard of living unless and until the consumer as a buyer of goods is given an active and significant role in the economic system. There can be no free enterprise if the citizen as a consumer is not also free. The consumer cannot be free so long as he must remain in ignorance and confusion on how to spend his money to get what he needs and wants.

There is, of course, the alternative that we abandon the system of free enterprise and intentionally adopt a controlled economy, in which case it is likely that consumers will be told, rather than asked, what they shall purchase and use. The rather wide extent to which consumers today are more told than asked what they wish to buy is prob-

ably a significant measure of the distance we have already come from a competitive to a dominated and controlled economy. It is suggested that the committee's further inquiries might well give attention to the methods employed by various industries to dictate consumer selection and to narrow and restrict the consumer's opportunity to select the kind of merchandise or the kind of merchandising service which best meets his particular needs. The freezing of industrial and commercial initiative, which is characteristic of the drift toward concentration, is nowhere more dramatically revealed than in the treatment accorded by an industry to its ultimate consumers.

The testimony which follows contains no word on the consumer cooperative movement. Doubtless this is a major subject which your committee will want to consider in its investigations. It is too large a subject and touches in too many ways upon the protection and advancement of the consumer interest, to receive adequate attention in these brief hearings. I am sure the cooperative movement stands ready to tell this committee what it hopes to do and what it is already doing to put back into the hands of consumers a really effective force for the determination of their own economic welfare.

One word more: In the testimony which these consumer representatives are to present to you such references as are made to particular brands or particular manufacturers are incidental and by way of illustration only. In many parts of the testimony it was feasible to eliminate the identifying names. These witnesses are concerned not with malefactors but with a condition. Their complaint runs not so much against specific frauds and abuses as against a general and continual neglect of the consumers' need for reliable and informative facts about the goods and services for which they spend their money.

Mr. Chairman, I will identify these exhibits to which I referred in my statements.

The CHAIRMAN. They may be received.

Mr. MONTGOMERY. The first is a statement filed here by the delegation of consumers on February 24, 1938.

(The statement referred to was marked "Exhibit No. 503" and is included in the appendix on p. 3457.)

Mr. MONTGOMERY. The second is a quotation from pages 4 and 5 of the July 1938 issue of the Journal of Marketing, referring to the Crowell estimates on the size of the consumer movement.

(The quotations referred to were marked "Exhibit No. 504" and are included in the appendix on p. 3458.)

The CHAIRMAN. Do you solemnly swear the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mrs. BELESTER. I do.

TESTIMONY OF MRS. ALICE BELESTER, CHICAGO, ILL., CHAIRMAN, UNITED CONFERENCE AGAINST THE HIGH COST OF LIVING

TYPICAL AMERICAN CONSUMER

Mr. MONTGOMERY. Will you please tell your name?

Mrs. BELESTER. My name is Mrs. Alice Belester.

Mr. MONTGOMERY. Where do you live, Mrs. Belester?

Mrs. BELESTER. 2853 Neva Avenue, Chicago, Ill.

Mr. MONTGOMERY. What is your family, Mrs. Belester?

Mrs. BELESTER. My family consists of my husband and myself.

Mr. MONTGOMERY. In what trade is your husband?

Mrs. BELESTER. My husband is a carpenter by trade, but he has two other occupations he is very skillful at. He is an upholsterer and he is a cabinetmaker.

Mr. MONTGOMERY. Mrs. Belester, this consumer question starts back with how much money the individual family has to spend and how they spend it, so I think these hearings ought to start off, if you can help us, by telling us about your own personal budgetary situation. Have you made a family budget?

Mrs. BELESTER. Yes; I keep a fairly accurate budget of my income and my expenses.

Mr. MONTGOMERY. Will you tell the committee for the year 1938 what your total income was?

Mrs. BELESTER. Our total income was \$1,140.

Mr. MONTGOMERY. What were your total expenditures during the year?

Mrs. BELESTER. Our expenditures were \$1,642.

Mr. MONTGOMERY. Your expenditures were larger than your income. You had a deficit, then, for the year, of how much?

Mrs. BELESTER. \$502.

Mr. MONTGOMERY. How did you meet that?

Mrs. BELESTER. We had to borrow \$510.

Mr. MONTGOMERY. What was the total amount of your debts at the end of the year?

Mrs. BELESTER. \$4,473.

Mr. MONTGOMERY. Will you tell us what items that was made up of?

Mrs. BELESTER. Then we had a loan of \$510, taxes were \$96, special assessments \$52, our doctor bill \$45, and the loan on the mortgage is still \$3,770. That makes the balance of \$4,473 at the end of the year's debts.

Mr. MONTGOMERY. Those are all sums you still owed at the end of 1938?

Mrs. BELESTER. Yes, sir.

Mr. MONTGOMERY. You said your total income for the year was \$1,140. Do you happen to know what the Government reported on family incomes for the year 1935-36? Have you seen any of those reports?

Mrs. BELESTER. Yes; in the Consumers' Guide of last September it stated that half of the middle families' income was \$22 per week.

Mr. MONTGOMERY. What do you mean by that \$22 a week?

Mrs. BELESTER. That means \$22 a week; that was the lowest middle family. That amounted to \$1,160 per year. The other half were living below that.

Mr. MONTGOMERY. Half the families were living below \$22 a week and half above, and that is \$1,160 a year?

Mrs. BELESTER. That is very much like my own income, which was just a few dollars less.

Mr. MONTGOMERY. In other words, your situation is about typical, was right in the middle, and half of the families had incomes lower than your own?

Mrs. BELESTER. Very similar. I am one of the typical American families.

Mr. MONTGOMERY. What were your husband's earnings in 1938?

Mrs. BELESTER. \$600 that year. His work was very slack. His salary was made the first part of the year. He was occupied at carpentering at \$1 per hour. He was formerly a union man. Unable to pay his dues in the union, he had to give that up, but this year he is rejoining again. He also made money outside, on his other occupations as an upholsterer and a cabinetmaker.

Mr. MONTGOMERY. So he made \$1 an hour when he worked but he had very slack work?

Mrs. BELESTER. Yes; the work was very slack.

Mr. MONTGOMERY. You told us your total income was \$1,140. How was the other \$940 earned?

Mrs. BELESTER. I rented rooms in my home. That is where the \$540 came from.

Mr. MONTGOMERY. Is your home large enough to rent several rooms?

Mrs. BELESTER. Well, the home was built by my husband and myself, and I am very happy that we built this home, because it now houses us, although we are very inconvenienced. We live in the basement, our living quarters are down in the basement, whereas we sleep in the attic. I feel very grateful that we were able to do this, although it does inconvenience us.

Mr. MONTGOMERY. The house you built, then, is providing a large share of your total income?

Mrs. BELESTER. Yes; it provides a large share of our income.

Mr. MONTGOMERY. I want you to tell us some of the facts about your expenditures. You said the total for the year was \$1,642. What was the largest single class of expenditure included in that total?

Mrs. BELESTER. The largest was \$872.50. That was to meet the mortgage payments, the taxes, repairs, and remodeling on our home.

Mr. MONTGOMERY. In other words, money spent on keeping your home was the largest single thing, and it amounted to \$872.50.

Mrs. BELESTER. That was the largest item.

Mr. MONTGOMERY. How much did you spend for food during the year?

Mrs. BELESTER. We spent \$220 for food, and I realize that with the sales tax taken off, which amounted to about \$10, it would leave it about \$210. I have a small garden which realizes me about \$20. I can some of my own fruit and vegetables, and that tides us over for the winter.

Mr. MONTGOMERY. What do you figure your total expenditure for food, including what you produced yourself?

Mrs. BELESTER. Deducting sales tax, which was \$10, it would be \$230 for my husband and myself.

Mr. MONTGOMERY. How much does that mean you can spend for food per person per week?

Mrs. BELESTER. I budget very closely; figuring out the amounts I spent throughout the year it amounts to \$2.31. Of course, that varies some weeks.

Mr. MONTGOMERY. \$2.31 for each of you?

Mrs. BELESTER. For each.

Mr. MONTGOMERY. With only that much to buy your food for the week, you have to be pretty careful in making your selections of food, don't you?

Mrs. BELESTER. Yes, Mr. Montgomery; I do. I have to be very careful. I have always been a very careful shopper, and especially this last year or so I have had to be very, very careful. When I go shopping it seems so confusing, especially when I am going out for the bare necessities of life. When I go to the grocery store I look on the shelves and I figure on purchasing canned goods, and there are so many brands it is hard to choose. I have difficulty in finding just what brand will suit my purpose. But I have found one store where they have a brand that is sold by grades, and I buy that purposely because I find it suits my needs.

Then, also, I find that when we buy meat, which is in very small quantities, I discovered that in our neighborhood one store carries Government-graded meats, and that I found very satisfactory, because I can buy the quality that I want, and this is an exception because the stores in our city of Chicago, very few of them, carry the Government-graded meats.

Mr. MONTGOMERY. Now about your food purchases in general. Do you have difficulty getting enough information about them to know whether you are getting your money's worth or not when you make a selection?

Mrs. BELESTER. Yes; I do. I have to make the choices myself. It seems I do not get any information from the sales clerks when I do ask them. They just use their own judgment, there being so many brands on the market.

Mr. MONTGOMERY. About these other purchases, how much did you spend for clothing during the year?

Mrs. BELESTER. I spent \$38.40 for clothing last year.

Mr. MONTGOMERY. Does that include any dresses for yourself?

Mrs. BELESTER. I purchased a suit. I was greatly in need of a suit; I went to one of the stores which I knew was reliable. There was a suit there that was \$25, marked down to \$10, which I purchased. It was the first purchase I had made for myself on a large item since 1936. Then I bought myself a pair of canvas shoes. The last pair of shoes I bought was in 1935. I replenish my shoe supply by \$1 or \$1.50 pairs of shoes every summer.

Then I bought work shirts for my husband, and overalls, socks, a polo shirt, and a hat. That is where the \$38.40 was spent.

INADEQUATE CONSUMER INFORMATION

Mr. MONTGOMERY. Now let's take the situation if you are going to buy a dress. Where do you look for help to tell you what this dress is that you are going to buy?

Mrs. BELESTER. Well, usually I look up the ads in the papers to see if I can possibly get a bargain.

Mr. MONTGOMERY. You brought an ad with you about some dresses. Will you show those to the committee?

Mrs. BELESTER. I did. For instance, here we have a dress at \$2, and this ad gives no description whatsoever of the quality or the goods that it is made of. All it states is, "You, in crisp, dainty, young shepherd checks, \$2."

If I were going to the store to buy this dress, that wouldn't give me sufficient information. I went to this store to see if I could buy a dress one time, at this very store this ad came from, and found that I wasn't satisfied. What I am looking for is information regarding the grading of the goods and the quality, how much wearing I can obtain from a dress, since my budget is so low.

Mr. MONTGOMERY. Will you get any information on the label on the dress, telling you these things?

Mrs. BELESTER. There is no information on the dress that will describe the thing I am looking for, such as information as to the wearing quality or the material it is made from.

Mr. MONTGOMERY. Do you get information from the sales girl on those points?

Mrs. BELESTER. Well, the girl tries very hard to give me the information and oftentimes I do go by her judgment, because she has had experience in selling; but she can't give me the correct information that I am looking for.

Mr. MONTGOMERY. Let's take some of these other purchases. How much do you spend for coal during the year?

Mrs. BELESTER. We spent \$113.20 for coal.

The CHAIRMAN. When you examine a garment such as that which is advertised here, isn't it possible for you to determine whether it is of the quality that you think you desire?

Mrs. BELESTER. Yes; to the best of my ability I can.

The CHAIRMAN. Well, haven't you all the ability that is necessary to obtain that information?

Mrs. BELESTER. Not enough, because some of the dresses have, say, rayon in them, and it is very hard to distinguish that, and they have to be laundered a little differently from a cotton dress.

The CHAIRMAN. So that you have to have specific information from some authoritative source before you can satisfy your own mind as to the quality of the goods that you see before you and that you feel?

Mrs. BELESTER. Yes, sir. There should be a standardized label for commodities of this kind, in fact, for all commodities, so that a housewife can choose and get her money's worth.

Mr. MONTGOMERY. May we introduce into the record the advertisement Mrs. Belester referred to?

The CHAIRMAN. It may be received.

(The advertisement referred to was marked "Exhibit No. 505" and appears on p. 3292.)

Dr. LUBIN. May I ask Mrs. Belester some questions?

Is there any way of your knowing whether that dress is silk or rayon? Would you know, yourself, by looking at it?

Mrs. BELESTER. I couldn't distinguish silk from rayon, if there isn't a tag attached to the dress. It is impossible to. This particular dress that I am showing doesn't state whether it is cotton or rayon. It doesn't give any description whatsoever excepting the style.

Dr. LUBIN. If you looked at the dress, would you know whether it were silk or rayon?

Mrs. BELESTER. There is so much rayon that we have on the market today that looks similar to silk—how are you going to distinguish that?

The CHAIRMAN. Wouldn't the price distinguish it? You wouldn't expect to get silk for rayon prices, would you?

Mrs. BELESTER. Well, that is very hard to judge, too. Some of the stores can sell a rayon dress for a silk dress.

The CHAIRMAN. The advertisement you presented here was for a \$2 garment.

Mrs. BELESTER. Yes.

EXHIBIT No. 505



Special Purchase!

SPORTS
DRESSES

Made to Sell for
\$5.95 and \$7.95

3.99

The newest in prints . . . stripes . . . dots . . . brought to you in this exceptional collection. Clever styling . . . variety of unusual necklines . . . interesting details. Many samples included. Not all sizes in all styles. Sizes 12 to 20.

Third Floor—Three Stores



CLASSIC
STUD
DRESS

\$22.95

The successful cornerstone of your town and country wardrobe . . . our thoroughbred classic stud dress. With freedom-assured fullness, and clean-clipped lines. Navy, light blue, sherbet green, primrose, white. Rayon crepe. Sizes 12 to 42.

Sports Shop, Fourth Floor—Hats, Fifth Floor.



SIZES
14 TO 20

YOU!
in Crisp,
Dainty,
Young

SHEPHERD CHECKS

\$2

Dress of tiny shepherd checks with its spanking white shark-skin over self double collar. Wide leatherette belt flatters the figure . . . buttons down the front from neckline to bottom of skirt. With a pearl kerchief that adds to its smartness. White checks on navy or black grounds.

MEZZANINE FLOOR

The CHAIRMAN. You wouldn't be under any misapprehension when you saw that garment, whether it was silk or rayon, would you?

Mrs. BELESTER. No; but I would like to mention an instance of a dress that was advertised that looked similar to a dress that was selling for \$4. It didn't tell the description of the goods; it was very

similar to the one I am showing you now. This person went to the store and discovered the dress was a cotton dress, where hers was a rayon dress a very good-looking dress, the same style. She went down there in order to see whether she was really getting gyved, in plain words, on \$3, and she was going to go back to the store and tell them, but she found that the advertised dress was a cotton dress, where hers was rayon and cotton, a mixture.

So you see you can't very well judge by advertisements.

Dr. LUBIN. Mrs. Belester, in your experience as a shopper do you find that the sales girl has the information that you would like to have in most instances?

Mrs. BELESTER. No; I don't think she has, yet many times I have bought because of her decision and the information she has given me. I don't believe she has. In fact, many times I have found it wasn't what the sales clerk told me it was.

Dr. LUBIN. She wouldn't know whether it was new wool in a dress, or reworked, or virgin wool, or what?

Mrs. BELESTER. I don't see how she could, unless there was a tag describing the dress.

Mr. HENDERSON. Some years ago I know the Better Business Bureaus throughout the country had a great deal of difficulty with the advertising of dresses as silk that were actually rayon. Do you know whether they are still having that same difficulty? Do you still find rayon dresses advertised as silk?

Mrs. BELESTER. Not being in the market for dresses of late, I haven't watched them very carefully, but I have been told through some of the women that I am connected with that they have purchased rayon dresses for silk dresses.

Mr. MONTGOMERY. Let's go down through some of these other expenditures in your budget. How much did you spend for coal during the year?

Mrs. BELESTER. \$113.20.

Mr. MONTGOMERY. How about all the utilities—gas, electricity, water, and so forth?

Mrs. BELESTER. \$121.75.

Mr. MONTGOMERY. What was the cost for medical care during the year?

Mrs. BELESTER. The total cost was \$107.10, and that was an essential. My husband took very ill last year and he had to go to the hospital. I had to borrow money in order to get my husband out of the hospital. That is an essential bill that must be paid when leaving the hospital. My doctor only received \$15. I still owe the doctor \$45.

Mr. MONTGOMERY. How much did you spend during the year for automobiles and transportation?

Mrs. BELESTER. For transportation I spent \$18, and on the automobile we spent \$73. That seemed to be a very large amount, but my husband—it is necessary that he has his car. He takes his tools along with him and his ladders, and oftentimes he has to bring furniture home to do some extra work when he possibly can find it. It really is necessary for us to have a car; although it is a 1927 model Buick, it gets around.

The CHAIRMAN. I think the Buick people would want to delete the word "although."

Mr. MONTGOMERY. Do you know what you spent for life insurance during the year?

Mrs. BELESTER. \$22.32.

Mr. MONTGOMERY. When you add up all these things we have mentioned so far, expenditures on the home, food, clothing, fuel, utilities, medical care, auto and transportation and life insurance, how much was the remaining expenditure that you had in your total budget?

Mrs. BELESTER. I had \$55.73 left.

Mr. MONTGOMERY. Which included a variety of miscellaneous things, I suppose?

Mrs. BELESTER. Yes; some necessities and some incidentals of different amounts.

Mr. MONTGOMERY. What are some of the items included in there?

Mrs. BELESTER. I had to buy some linens which were greatly needed in the home.

Mr. MONTGOMERY. How much did you spend for that?

Mrs. BELESTER. I spent \$9.83.

Mr. MONTGOMERY. Tell us some of those items you bought under that expenditure.

Mrs. BELESTER. I needed dish towels; I bought some curtain goods, and I bought some sheets that I badly needed.

I was mending my old sheets and I turned them into pillowcases, the best part I could possibly get out of them. Not buying any since 1932, they were pretty well worn out.

Mr. MONTGOMERY. That is the first time since 1932 you had spent money on sheets?

Mrs. BELESTER. Yes.

Mr. MONTGOMERY. How much did you spend for sheets last year?

Mrs. BELESTER. Last year the bill came to \$4.86, I believe, on the sheets, and these I bought at a sale at a new store that just opened up.

Mr. MONTGOMERY. How did you determine what sheets to buy?

Mrs. BELESTER. Well, I couldn't very well tell. I just took a chance on the sheets I bought last year. I have a little ticket here with me yet. I still have one of the new ones. The only description is "torn size, 81 by 90," so I took a chance in buying the sheets.

Mr. MONTGOMERY. Did it have the brand name on the ticket? Has the sheet a brand name?

Mrs. BELESTER. This is the 1938 brand that I bought, a Midwood, unadvertised. I never heard of the sheet before.

Mr. MONTGOMERY. You didn't know what that name meant?

Mrs. BELESTER. No; I never heard of it before.

Mr. MONTGOMERY. What kind of sheets did you buy in 1932?

Mrs. BELESTER. I bought Fruit of the Loom in 1932. They were widely advertised, and I was informed they were of good quality. I paid \$1 and a few cents for those sheets a pair, or each, rather. The sheet that I bought last year I paid 69 cents for.

Mr. MONTGOMERY. So I understand in 1932 you selected the sheets by buying a brand that was familiar to you, a name that you had heard; and this year you went out and bought on the basis of price, buying from a retailer you didn't know, a new store, and buying a brand you never heard of?

Mrs. BELESTER. I had to, because I had a limited amount to spend.

Mr. MONTGOMERY. In which year do you think you got the better value for your money?

Mrs. BELESTER. Well, as a matter of fact, Mr. Montgomery, I couldn't very well judge. The sheets I bought in 1932 may have been a better quality, but I won't be able to tell until a few years later, when the quality of the sheets I purchased last year will show their wear.

Mr. MONTGOMERY. Weren't you given any facts in either case which would indicate what the sheet was made of, how long it would wear, and so forth?

Mrs. BELESTER. No; neither one of them showed anything pertaining to the grade of the sheet.

Mr. MONTGOMERY. Where, in general, do you look for information? What do you have to rely upon when you go out to spend your money for these things you can only buy once, say, in every 6 years?

Mrs. BELESTER. Well, I look up the papers, as I have mentioned previously, because sometimes I can judge if it is a brand that is well known, and also look on the labels. Being a cautious buyer, I try to make a good choice. Sometimes I do; sometimes I don't. It is just taking a chance. I also ask the sales clerks, because they are familiar with the goods.

Mr. MONTGOMERY. How much help do you get from all that?

Mrs. BELESTER. I get very little help from the advertisements.

Mr. MONTGOMERY. You brought some advertisements down. Will you briefly point to each of those and give an idea of what it means to you or doesn't mean to you? Before you talk about each one, will you identify it?

(The advertisement referred to was marked "Exhibit No. 506" and appears on p. 3296.)

Mrs. BELESTER. Here, for instance, is a shirt. When I go to purchase a shirt for my husband, which I know many housewives do, I usually look for the style of the shirt, a good-looking shirt, but I also want to know whether it is a good grade and if it will last. Here is this shirt. It tells you it is a special white broadcloth, collar attached, neckband style shirt, sold regularly at \$2.50 and \$3. I look for a bargain, but I would also like to get better information; for instance, the fabric of the shirt, and what the thread counts are.

The CHAIRMAN. It says "broadcloth."

Mrs. BELESTER. Yes; but we have a variety of grades in broadcloth.

Mr. MONTGOMERY. Will you show the next ad you brought? What is that?

(The advertisement referred to was marked "Exhibit No. 507" and appears on p. 3297.)

Mr. MONTGOMERY. What does that ad show?

Mrs. BELESTER. Here is a vacuum cleaner. It is something the housewife buys very rarely and we have to be very careful. This ad shows you a streamlined vacuum cleaner, and it tells you that it keeps the colors fresh, and it tells you that that springtime look in your house after housecleaning is fresh, clean color of new rugs, of new drapes. "If this new color is worth having, it is worth keeping."

It also goes on to tell you about the dog:

If you have a dog, you love dogs, but you don't love dog hairs, and you find this vacuum cleaner is yours and Cocky's best friend. It is the one sure way to keep the dog and get rid of the hair.

EXHIBIT No. 506



SPECIAL
White Broadcloth and Jacquard
 Collar Attached and Neckband Style
SHIRTS
 SOLD REGULARLY AT \$2.50 AND \$3.00
 BOX OF ③ for \$5

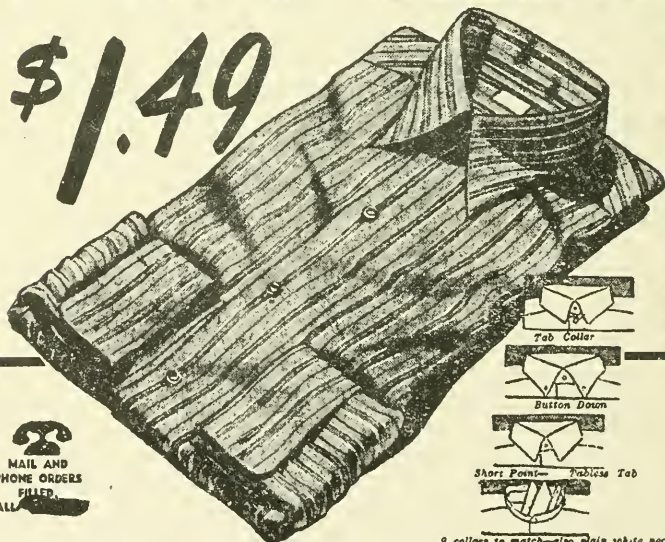
Telephone and Mail Orders Given Prompt Attention
 State neck size and sleeve length
 TELEPHONE 



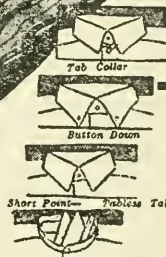
**Fine Whites and a Large Assortment of Patterns Worth
 \$2 and \$2.50—In a Value-Packed, Money-Saving**

SHIRT SALE

\$1.49




 MAIL AND
 PHONE ORDERS
 FILLED
 CALL 



8 collars to match—also plain white neckba

Select group of fresh, new shirts in the latest and most fashion-
 able patterns, materials and collar styles. The lustrous fabrics
 assure you amazing savings for months to come. Many are San-
 forized shrunk—all are guaranteed not to shrink out of size.

Mr. MONTGOMERY. Those are the funny parts of the ad. What is the information?

Mrs. BELESTER. That is just the point. I want better information than that. I want to know whether this particular vacuum cleaner would be a comparative value to some other vacuum cleaner I will

EXHIBIT No. 507

[illegible]

be comparing it with, and also how much current it would use and what its wearing quality would be. Those would be the most essential facts.

The CHAIRMAN. Couldn't you test those facts out in the store?

Mrs. BELESTER. How could you if you only have the one? If you had several vacuum cleaners together, there may be some possibility

of doing that; but if you were just having a demonstration on one, it would pick up the dirt, but you couldn't tell if it was better than another.

The CHAIRMAN. I would think a purchaser of a vacuum cleaner would be like the purchaser of an automobile—go from one dealer to another until he found the instrument that suited his desires.

Mrs. BELESTER. But how could you tell, when it is a new vacuum cleaner?

The CHAIRMAN. You can tell by trying them.

Mrs. BELESTER. I know it was impossible for me to tell when I was purchasing my old vacuum cleaner, and I am really in need of another.

The CHAIRMAN. How could you tell by the advertisement?

Mrs. BELESTER. It is very hard to distinguish. It doesn't tell the facts I want.

Mr. MONTGOMERY. What could the advertiser put in there that would help you out?

Mrs. BELESTER. I would say that there should be a grade, also, in vacuums as well as on any commodity. It should be standardized.

The CHAIRMAN. Oh, I see. You are recommending a different method of marking goods, so that by law they shall be graded or standardized, is that the idea?

Mrs. BELESTER. Yes, sir; that is what a housewife would be very greatly in need of.

Mr. HENDERSON. It wouldn't have to be by law, would it, Mrs. Beleston, if the manufacturers themselves adopted standards? All during the twenties there was a big standardization movement going on as to things which manufacturers buy. Purchasing agents themselves use standards in buying material for industrial concerns, and that is not required by law. It wouldn't have to be by law, would it?

Mrs. BELESTER. Well, the best way to get around it, I believe, would be by the law, for this reason: There is so much competition in much of our commodities. In vacuums you know we have various brands on the market, different concerns put them out, and they are competing, and if we had a standardized law, then we would be sure of getting quality.

The CHAIRMAN. I might remark, for Mr. Henderson's benefit, that the manufacturers of wool, for example, have very vigorously resisted the law now pending in Congress requiring the labeling of woolen goods, upon the ground that it would be an injustice, at least to the manufacturer, to compel them to distinguish between virgin wool and reworked wool. I have never been able to understand that argument, but it is quite obvious from the activity that the wool manufacturers could not be compelled to label their goods except by law, so that the consumer would have no possibility of knowing whether a particular garment was made of virgin wool or shoddy or reworked wool, except by statute.

Mr. MONTGOMERY. I might say that I can promise the committee some interesting information from a later witness about some of the things a consumer doesn't know when she buys a vacuum cleaner.¹ We are coming to that this afternoon.

The CHAIRMAN. My suggestion was prompted by the fact that the mere addition of new material in an advertisement would not of itself be of any assistance.

¹ *Infra*, p. 3331 et seq.

Mrs. BELESTER. The next is coffee. Here we have an advertisement of coffee. We have a group of people sitting around a seashore or country home, and they are commenting on the swell coffee. Then we find that it is endorsed by one of the movie stars, and that the coffee is delicious.

Mr. MONTGOMERY. Why don't we give the movie star a break? What is his name?

Mrs. BELESTER. I wasn't going to reveal his name, but if you wish it, I will. His name is James Stewart—

The biggest star in Hollywood. Its rich, mellow goodness is the talk of the town.

When I buy coffee I don't go according to seeing a picture like that. This doesn't give me the information I want. Each coffee has a different taste. Of course, I want fresh coffee, but we all vary in tastes. That ad is useless to me.

Mr. MONTGOMERY. All you can do about coffee is to be sure it is fresh. I take it your taste and Mr. Stewart's taste might not agree?

Mrs. BELESTER. It may not. Him being a movie star, we have different things in common.

Now I want to relate an experience that I had a few years ago when I was in the market—

Mr. MONTGOMERY. Just a moment; identify that for the record.

(The advertisement referred to was marked "Exhibit No. 510" and appears on p. 3302.)

Mrs. BELESTER. Here is a picture of an electric refrigerator, and the housewife being very amazed, and it says, "The amazing shelf-lined inner door." It is true that I was taken up by this inner-door business, because it states it is a space saver.

I was very much taken up with this, but I happened to think, well, there is no other identification on it any different to what the other refrigerators would give me; it gives you just the ordinary information such as quick ice-cube release, meat storage, oversize freezing unit, but it doesn't tell me about the insulation, whether it is well insulated in comparison to other ice boxes or about the amount of current it would use and how long it would stand up, and those are very big items that a housewife should really look for. This is another item that we should have some standardized measures for in order to be able to judge by.

Mr. MONTGOMERY. Are those all the advertisements you have?

Mrs. BELESTER. Those are all, Mr. Montgomery. I didn't have time to get more. I could have gotten hundreds more but I know the committee wouldn't have time to go through all these advertisements.

Mr. WHITE. Would it be your opinion that in these advertisements there should be information which in itself would be definitely comparative as between one product and another?

Mrs. BELESTER. That is what I would suggest should be also done.

Mr. WHITE. Do you think that a manufacturer could appropriately put anything in his advertisement which would compare his own product with his competitors?

Mrs. BELESTER. Well, how can you judge unless this commodity was inspected by an impartial body and compared with the other?

much electricity would be consumed in so many hours of operation of the vacuum cleaner and things like that.

Mrs. BELESTER. Yes; the actual operating cost, and also the quality, how long it will last me.

UNITED CONFERENCE AGAINST THE HIGH COST OF LIVING

Mr. MONTGOMERY. I think you have given the committee a pretty clear story, first of the necessity that you are under to spend money very carefully and to know what you are getting, and you have told about the confusion that you get in the market. What are you doing about it?

Mrs. BELESTER. Well, a few years ago I used to ponder when I was on my shopping tours in the stores and wonder whether something couldn't be done in order to give us the facts that the housewife is looking for, the facts on the values, facts on prices so that when we go to the store we can get our money's worth and buy according to the needs of the family and our pocketbook, and it dawned on me, my husband being a union man, why couldn't we housewives have an organization similar, a homemakers' union. He was in the union, he was able to bring his grievances before his local, and I thought, why wouldn't it be a good plan for the housewives to do that. So I got together a few other women that had the same problems as I did, and we were the originators of the organization that now exists in Chicago.

This organization carried on educational campaigns through the hard work of these housewives, in order to be able to get this information that we were seeking, but we have found it rather difficult, being that the consumers' movement is just new and consumers themselves don't really realize that they are consumers. Now, our organization has 190 organizations that make up the council of this organization which covers a membership of between 75,000 to 80,000 people. Then we have a number, about six, neighborhood groups throughout various sections of Chicago, study groups were established, and here we take up the consumer problem. We use the Consumers' Research Bulletin, the Consumers' Union Reports, and the Consumers' Guide; we get considerable information from them. We also carry on educational tours; for instance, 2 years ago we carried on a housing tour on the South Side, which was badly in need of housing. We compared that section with one of our better sections of the city, and we took a moving picture of that and showed it at many of our meetings, which was very interesting. Today on the South Side there is to be a Federal Housing project.

We have lectures, speakers, discussion groups, one of our neighborhood groups in particular was interested in weights and measures. In one instance one of the women discovered that the store was selling a boxed cookie that was formerly sold for 17 cents, and was then selling it for 13 cents, and she discovered that it was a smaller box, and the storekeeper said, "Oh, you're the first woman that recognized this." Well, it happened that she was in this consumer organization and she was on the alert. She told the group when she came back and they made sure that this storekeeper saw

that he put out the proper information where he did use this information regarding the cookies.

Mr. MONTGOMERY. What did he do?

Mrs. BELESTER. He has to put the weight onto it.

Mr. MONTGOMERY. How much difference was there?

Mrs. BELESTER. There was 4 ounces. It was originally a pound box, and the new box was just 12 ounces, three-quarters of a pound.

The CHAIRMAN. How long ago was that?

Mrs. BELESTER. This was the year before last, or the beginning of 1938.

Mr. MONTGOMERY. Do you remember what the difference in price was? What was the special price?

Mrs. BELESTER. Thirteen cents.

Mr. MONTGOMERY. What had it been selling for?

Mrs. BELESTER. It was selling for 17 cents.

Mr. MONTGOMERY. Figure that out. It was a reduction of 4 cents on a 17-cent item, wasn't it?

Mrs. BELESTER. Yes.

Mr. MONTGOMERY. And the weight was reduced 4 ounces on 16 ounces.

Mrs. BELESTER. There wasn't a special on that; I wouldn't consider it a special.

Mr. MONTGOMERY. I think if you figure that out you will find the small box cost a little more than the big one.

Mrs. BELESTER. A penny, and all these pennies do count.

The CHAIRMAN. I suppose you are aware that the duty of a division of the Department of Agriculture is to maintain some sort of standards for containers.

Mr. MONTGOMERY. They are just getting to work to get that bill into effect next June unless Congress delays its effectiveness.

The CHAIRMAN. The regular Department of Agriculture appropriation is now before the Senate and contains a fairly good appropriation for that division of the Department of Agriculture.

Mrs. BELESTER. That would be a boon to the housewife, because as a rule the average housewife does not look on the package, but since the consumer movement is growing they are getting very conscious of doing these things.

This organization was endorsed by the Chicago Federation of Labor, being that there were a number of unions in it.

The CHAIRMAN. What is the name of the organization?

Mrs. BELESTER. The name of the organization is the United Conference Against the High Cost of Living.

The CHAIRMAN. And when was it organized?

Mrs. BELESTER. It was organized in the spring of 1935.

The CHAIRMAN. How many members did you start with?

Mrs. BELESTER. We started with eight housewives.

The CHAIRMAN. In your neighborhood?

Mrs. BELESTER. No; we started a conference in my neighborhood with three women, and then got to another part of the city, friends of ours, and we joined those conferences together, and from those two conferences we approached organizations because we knew that by approaching these organizations we could reach many people who were in the same—

The CHAIRMAN (interposing). Were these women with whom you started in the same income group as you are?

Mrs. BELESTER. Yes; they were on about the same level.

The CHAIRMAN. And what can you say now with respect to the present membership, which I understand you to fix at between 75,000 and 80,000?

Mrs. BELESTER. We have a diversified group now in our organization. The organizations are churches, unions, fraternal organizations, women's clubs, and miscellaneous groups such as small neighborhood organizations, even the improvement clubs such as civic clubs, and they vary, but we have—

The CHAIRMAN (interposing). Forget the organizations. I am thinking about the individual members of your organization. Do you know anything about the income levels which they occupy?

Mrs. BELESTER. A good percentage of our members are living on incomes much lower than mine.

The CHAIRMAN. You say a good percentage. What percentage?

Mrs. BELESTER. Well, I would say about two-thirds of them.

The CHAIRMAN. And your income last year was less than \$700?

Mrs. BELESTER. The income that my husband brought in, yes.

The CHAIRMAN. But added to your income it made?

Mrs. BELESTER. \$1,140.

The CHAIRMAN. So that most of the 75,000 to 80,000 men and women who belong to this organization have incomes at least not more than that?

Mrs. BELESTER. I know of a particular family that is living on \$55 a month, with a family of six children.

The CHAIRMAN. You could give many individual instances. I wanted to get the picture of the whole group. Most of them are receiving that income or a smaller one?

Mrs. BELESTER. Yes. The majority of them are wives of men in these organizations because the unions are predominating in our organization, and I would say that many of these men that are in the unions are unemployed, on relief, and on W. P. A., but outside of those we have some in the higher brackets.

The CHAIRMAN. But most of them are in this income bracket?

Mrs. BELESTER. Yes; they are in the lower income bracket, around \$700 and \$800 per year.

The CHAIRMAN. Would you say that two-thirds of them are in that group?

Mrs. BELESTER. I would say close to two-thirds.

The CHAIRMAN. Are you getting very much attention from merchants? Are they paying attention to what you are trying to accomplish?

Mrs. BELESTER. Yes; I will say they are in the neighborhoods where the women are very active; they do take attention of that. They are very careful and they have even remarked, "I wonder where all these women are getting their information from." Their ears have pricked up now when they find the housewife is getting information.

The CHAIRMAN. What are you getting them to do, for example? Let's have that story.

Mr. BELESTER. One of our groups conducted a conference on health, and this particular group was very interested in obtaining

a nursery so as to give the children a little better food—rather some of these nurseries are giving food and this was very essential for these nurseries to be established in several neighborhoods, but this particular group carried on this activity for a nursery and also a conference for health. They are interested in the health of the community. Then, we had another group that participated in housing. Then, we have a group that—

The CHAIRMAN (interposing). You misunderstood me. I wanted to know what the merchants have been doing in response to your pressure.

Mrs. BELESTER. The merchants in particular neighborhoods?

The CHAIRMAN. Wherever you know, as a result of the activities of this group of 75,000 to 80,000 women.

Mrs. BELESTER. One of the campaigns that we have carried on and are still carrying on is a campaign for meat grading, compulsory meat-grading ordinance for Chicago. We are petitioning the mayor for compulsory meat grading ordinance, and we have 7,000 signatures already.

The CHAIRMAN. Now that is something that you are trying to do. I haven't made my question clear. What have you actually induced the merchants to do?

Mrs. BELESTER. I am trying to get onto that by telling you that the meat grading has been introduced in several neighborhoods because the housewives are demanding that, and that is one of the things that we have accomplished.

Then we also carried on a campaign against a sales tax. That was to be placed on our utility bills; and because we rose up in arms the sales tax wasn't placed on the utility bills. Also the increase on gas rates, which we are hoping will be a victory—it has so far, yet we are still paying the 30 cents a month.

The CHAIRMAN. I might interrupt you to say that the New York papers please copy. I noticed in the New York Times this morning that a sales tax is being promoted in New York State. Pardon me for the interruption.

Mrs. BELESTER. The sales tax is an added burden to the small-income groups because they spend most of their income on the necessities of life. Although we still have our sales tax in Chicago, or rather in Illinois, this sales tax was eliminated from our utility bill, and there are many fronts that the housewife has got to keep her eyes and ears open on, and that is why we are asking for assistance on this.

The CHAIRMAN. I am interested in your saying that you have succeeded in establishing in some localities in Chicago a system of meat grading. What is that system and how does it operate?

Mrs. BELESTER. The grading of the meat is by the Government. It is a Government meat-grading system, and the meat that is graded is graded, of course, by an impartial body, and we feel if this meat grading was compulsory the housewife would be able to get her money's worth, because we find that sometimes during the year the choice meats are scarce and the inferior qualities can be sold for choice meats. The average housewife isn't able to distinguish the difference in one or two grades, and we find a variation in meats. For instance, there are advertised choice steaks, such as sirloin, for 16½ cents. Now, we know that there is a great difference between 16½-cent and 35-cent

steak. We would like to have, not standardized quality but compulsory meat grading for that reason. We could purchase the meat that is best suited to our needs, and that is why several of the neighborhoods have already been able to get the Government graded meats, because they demanded it, and it has been a help to them and the storekeepers are complying with their wishes.

Mr. MONTGOMERY. Are there any other things you want to tell about your similar organization work?

Mrs. BELESTER. I just wanted to say that the organization is carrying on an educational campaign among consumers in the consumer interest, because consumers in the past have been going around blindfolded, and I have brought the message to this committee to take this into consideration and investigate on the report that I have presented to you and see that some of these things are remedied so that we will be able to have standardized merchandise, grades, and quality, also regarding prices, because the low-income family has to be very careful in spending its money, and I belong to one of the lower-income brackets, and I am very careful, and I ask this committee to take it into consideration for the thousands of housewives that I represent in Chicago. We know the consumer movement is growing rapidly; you have been told about the delegation that came here last year to Washington, and I am acquainted with various other leaders. This movement will grow.

The CHAIRMAN. The consumer power of your group is really very great, isn't it? Although you have only a small individual income, when the aggregate is considered the purchasing power is really very substantial.

Mrs. BELESTER. We spend most all of our money on the necessities of life, and naturally it should have a great bearing on the storekeepers and the manufacturers, because without the consumers, how could they operate? It would be impossible for them to operate.

Mr. MONTGOMERY. I want to go back for just one other question, Mrs. Belester. I think I went too quickly over the cost of medical care. You said your husband was in the hospital during the year.

Mrs. BELESTER. Yes, Mr. Montgomery.

Mr. MONTGOMERY. Tell us what was the total cost. How much did it cost to get him out of the hospital?

Mrs. BELESTER. \$85.60.

Mr. MONTGOMERY. That is the hospital bill.

Mrs. BELESTER. That was the hospital bill for 7 or 8 days.

Mr. MONTGOMERY. Do you know what the doctor's bill was for that illness?

Mrs. BELESTER. The doctor's bill for my husband was \$45—\$50, and the balance of that doctor's bill was on myself; I needed attention also. Fifteen dollars was all that was paid the doctor; he is still waiting for \$45, which I hope I will be able to pay him this year.

The CHAIRMAN. When you were listing your debts at the beginning of the testimony, you spoke of your total indebtedness at the end of the year as something in excess of \$4,000.

Mrs. BELESTER. \$4,473.

The CHAIRMAN. How much of that was really invested in your house?

Mrs. BELESTER. \$872.

Mr. MONTGOMERY. No. What is the mortgage on your house?

Mrs. BELESTER. The mortgage on the house is \$3,770.

The CHAIRMAN. So that actually your indebtedness for living expense was what? You had to borrow \$510 in order to take care of certain medical expenses, the husband's hospital bill, and so forth, and your own? I am trying to get the exact figure on your living expenses because that is the significant thing.

Mrs. BELESTER. What would you mean by living expenses? We spent \$210 on food.

The CHAIRMAN. You gave food, coal, utilities, transportation, automobile, what would that all total?

Mrs. BELESTER. It amounted to \$700.

Mr. MONTGOMERY. Your total expenditures.

Mrs. BELESTER. The total expenditures were \$1,642 for the year.

The CHAIRMAN. \$1,642, and your income was \$1,120?

Mrs. BELESTER. \$1,140.

The CHAIRMAN. So that left a balance of \$502 that you were unable to meet.

Mrs. BELESTER. Yes.

The CHAIRMAN. Out of your income.

Mrs. BELESTER. Yes.

The CHAIRMAN. And you borrowed to meet that.

Mrs. BELESTER. \$510 we borrowed.

The CHAIRMAN. Let me ask, are your medical expenses included in this \$1,642?

Mrs. BELESTER. Yes; it is all included.

The CHAIRMAN. So that you are deducting the medical bill, which was how much?

Mrs. BELESTER. \$107.10.

The CHAIRMAN. There was something more, wasn't there?

Mrs. BELESTER. That included the doctor's bill.

Mr. MONTGOMERY. That doesn't include the part of the doctor's bill you haven't paid yet.

Mrs. BELESTER. No; I have \$45 outstanding for the doctor's bill.

The CHAIRMAN. Well, \$152.10 would have to be deducted from this \$1,642, wouldn't it, in order to get your actual living expenses? That was an emergency expense.

Mrs. BELESTER. Yes.

The CHAIRMAN. And even then your expenses would be \$1,490 as against an income of \$1,140.

Mrs. BELESTER. Yes.

The CHAIRMAN. Are there any other questions to be asked of this witness?

Mr. HENDERSON. I would like to say that I made a study of the report of the Committee on the Cost of Medical Care. This report shows that the type of expense which you called an emergency and deducted, occurs about once every 2 years in the ordinary wage earner's family.

The CHAIRMAN. I would expect that there would be medical expenses every year, but I was eliminating that merely for the purpose of showing that the actual living expenses and illness were still greater than the income, the combined income of the husband and wife in this instance.

Mr. MONTGOMERY. I have no other questions, Mr. Chairman. I thank Mrs. Belester very much.

(The witness, Mrs. Belester, was excused.)

Mr. MONTGOMERY. Could we adjourn now?

The CHAIRMAN. The committee will stand in recess until 2 o'clock. (Whereupon, at 12 noon, a recess was taken until 2 p. m. of the same day.)

AFTERNOON SESSION

(The hearing was resumed at 2:15 o'clock upon the expiration of the recess.)

The CHAIRMAN. The committee will please come to order. Mr. Montgomery, will you proceed?

Mr. MONTGOMERY. My first witness is Mrs. Roller.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in these proceedings will be the truth, the whole truth, and nothing but the truth, so help you God?

Mrs. ROLLER. I do.

TESTIMONY OF MRS. PAUL S. ROLLER, BERWYN, MD., CHAIRMAN, CONSUMERS' SECTION OF COLLEGE PARK AMERICAN ASSOCIATION OF UNIVERSITY WOMEN; CHAIRMAN, CONSUMERS' SECTION OF PRINCE GEORGES COUNTY GENERAL FEDERATION OF WOMEN'S CLUBS

Mr. MONTGOMERY. Will you tell your name, please?

Mrs. ROLLER. My name is Mrs. Paul S. Roller.

Mr. MONTGOMERY. Your address?

Mrs. ROLLER. Berwyn, Md.

Mr. MONTGOMERY. Mrs. Roller, tell us what your occupations are.

Mrs. ROLLER. I am a housewife. I have been married 10 years and have 3 children.

Mr. MONTGOMERY. What other occupations do you have?

The CHAIRMAN. There are three occupations already.

Mrs. ROLLER. Four—I have a husband.

I have been doing work in the American Association of University Women. When I say that I have been doing work, I mean that I am a member and have been leading a consumer study group in the organization. Of course; you understand by this I am not paid in any way, I am just a regular member, but because of my qualifications I have been asked to lead this consumer study group.

Mr. MONTGOMERY. By the way, on that question of being paid, do you happen to know from your experience whether most of the people like yourself, working in the consumer movement, are getting paid for it?

Mrs. ROLLER. I haven't found one yet. That is one of the reasons the consumer movement moves as slowly as it does, because we don't have any money, and when we start spending too much ourselves our husbands object.

Mr. MONTGOMERY. Well, now, Mrs. Roller, we heard this morning from Mrs. Belester—

Mrs. ROLLER (interposing). May I mention another organization?

Mr. MONTGOMERY. Yes.

Mrs. ROLLER. I am the chairman of Consumer Problems for Prince George's County, Md., General Federation of Women's Clubs. That organization has about 40 local clubs and I am the consumer chairman for all of them.

Mr. MONTGOMERY. Any other organization work?

Mrs. ROLLER. No other.

MISLABELING OF CONSUMER GOODS

Mr. MONTGOMERY. Mrs. Roller, we heard from Mrs. Belester about the general subject of confusion on the part of the consumer trying to get her money's worth for the money she has. You have made quite a study of a lot of these questions. What particular parts of it do you want to tell us about?

Mrs. ROLLER. One of the first things that confuses the consumer is the names of some of the commodities that are sold. Would you like an example?

Mr. MONTGOMERY. Give us an example of that.

Mrs. ROLLER. Under jewelry, we find jewelry being made of German silver, and German silver has no silver in it. I checked that and found that it contains 55 percent copper, 25 percent zinc, and 20 percent nickel, and still consumers buy things called German silver and think they are getting something made of silver. In the jewelry line, American ivory and French ivory are also items that are sold and that really are not ivory at all, but some composition product.

In millinery there are hats that are sold made of a rice-paper product which is an imitation of genuine Panama. These hats are called Toyo Panama and Formosa Panama. The Federal Trade Commission has had cease-and-desist rulings on this sort of thing, because the practice is so flagrant and consumers have been misled by these terms.

Mr. MONTGOMERY. Is your information on this Panama hat question based on the Federal Trade Commission cases?

Mrs. ROLLER. Yes; I looked it up and I have the numbers of the rulings here.

Mr. MONTGOMERY. That is all right. I don't think we need those.

Mrs. ROLLER. Then under furniture we see furniture advertised as Philippine mahogany. Right here in Washington I have seen ads of furniture called Philippine mahogany, and I understand that Philippine mahogany isn't mahogany at all and that the Federal Trade Commission has had a ruling on that saying that that practice should be stopped. That is another example of a misleading term.

Some of the fabrics have misleading terms, and those of us who make our own clothing are certainly misled by them. French linen is a product that is sold and is not linen and doesn't come from France. Austrian wool and Saxony wool don't come from Austria or Saxony and are not wool products. Silk floss has no silk in it; it is a vegetable fiber. Baronette satin is another material sold and the consumer seeing that name would think it was a silk product, but there is no silk in it.

One of the interesting ones was——

Mr. MONTGOMERY. Where did you get your information on those textiles you spoke about?

Mrs. ROLLER. I got my information on these textiles from leaflets put out by the Better Business Bureau. I have them with me here. One of the ways that names are made misleading is by modifying the spelling or by adding diminutives to suggest that an article is something that it really isn't. For instance, "rabbit" is called "sealion" or "beaverette." Beaverette is not made from beaver but is just a treated rabbit skin.

Jewelry is called "silverine," and has no silver in it. Fabrics—I was surprised when I made this study to find that liline does not contain any linen. I have bought liline and linette for years.

Mr. MONTGOMERY. How do you spell that?

Mrs. ROLLER. L-i-n-i-n-e. I always thought it was a linen product, but made out of very fine threads, and when I made this study I was surprised to find that there is no linen in liline.

Then one of the other things that is confusing besides names is misleading terms, such as "linenized," "linen-finished"; "all but linen" is a term that is used on a fabric that contains linen. Wool-finished, wool-spun, silk-finished, all of these terms suggest that either wool or silk or linen is in the product, and there is none in any of these products.

Terms that are on the market that are misleading that I have seen or that have been pointed out to me by my friends include such terms as waterproof, water-repellant, water-resistant, weatherproof, and showerproof. Just what these mean I don't know. Also such terms as run-proof and run-resistant. Only recently, within the past 2 weeks, I went out to buy some underwear in Washington and the salesgirl herself didn't know the difference between run-proof and run-resistant, and when I pinned her down she admitted that neither term meant that the underwear would not run—this was a knitted fabric.

Then I have been collecting a list of new finishes on the market, and I would like to read this list.

Mr. MONTGOMERY. Finishes for what?

Mrs. ROLLER. Finishes on textiles; and I think this list is so funny that I would like to read it. These are terms for textiles and finishes for new textiles that are on the market today—bellmanizing, martinizing, sanforizing, superizing, duralizing, tebilizing, sheltonizing, vitalizing, warconizing, salinizing, aqua-sec, slip-naught. These are terms that are on the market today and when consumers see them they are supposed to know what they mean and to be able to choose a material on the basis of these names.

Mr. MONTGOMERY. Sounds like a chorus from Pins and Needles. Won't you turn that card over to the reporter, because I don't think she could spell those. Have you anything else on the question of names given to products, or finishes?

Mrs. ROLLER. I have an interesting list here of Federal Trade Commission notices. It seems that Harris tweed is a term that has been used by manufacturers to mislead the consumer and lead him to believe that the material that he is selling is an original Harris tweed. Under the Federal Trade Commission hearing No. 2519 they have had a cease-and-desist order against representing tweed, other than hand-woven and manufactured in the outer Hebrides, Scotland, shall not be called Harris tweed, imported British wool, Harris tweed type, or loomed from imported Harris tweed wool.

They also have rulings on Bemberg. Bemberg is a rayon product, and under this Federal Trade Commission ruling it can't be implied that it is not all rayon. These are just examples of what the Federal Trade Commission has picked up. There are many terms that are on the market that confuse the consumer, and those terms have not been picked up. Some of the terms that have been picked up by the Federal Trade Commission are still being used. An example of that is Philippine mahogany.

BRANDS NOT A STANDARD FOR QUALITY

Mr. MONTGOMERY. Now, Mrs. Roller, you said you have some information for us on the subject of brands. That is, I understand that a good many consumers are sold goods on the basis that they are to find out what brand they like; then are to buy it on the basis of that brand; that that is the thing that sells it to them. Now, what studies have you made on that question that would show the committee what happens to a consumer who relies on a brand exclusively in buying goods?

Mrs. ROLLER. Before I tell you what my study has shown, I would like to tell you what seems to me to be the general practice. What happens is that so little information is available, consumers have a feeling that they should rely on brand name, so what they do is go to the store and try out a few brands and then when they find one that seems to suit their needs, they stick with it. That is what the general tendency is, but my studies have shown that that isn't always the best procedure.

For one thing, there are so many brands on the market, it is very difficult for us to go into the store and try out every brand that is available.

Mr. MONTGOMERY. Give us examples of the numbers of brands on the market. What information have you on that?

Mrs. ROLLER. The Milwaukee Journal newspaper, published in Milwaukee, has a survey every year. They ask housewives and consumers to submit lists to them of names of commodities that they buy, and for this list each one is given a bag of samples, free samples.

Mr. MONTGOMERY. Never mind that; give us the information about the number of brands.

Mrs. ROLLER. Well, they publish this consumer analysis and we have looked at the consumer analysis for 1938. In Milwaukee, 31 cans—31 brands—of canned milk are sold, 142 brands of coffee, 95 brands of tomato juice, 177 brands of table butter, and even peanut butter has 109 brands. Those are some of the foodstuffs that I took from this list.

I knew that there would be men at this hearing, and so I looked at a couple of things I thought men would be interested in. I found that in Milwaukee alone 235 brands of cigars are sold. Just how a man is going to tell which brand of cigar suits his need is more than I can figure out.

There are 188 brands of safety razors sold in Milwaukee; there are 134 brands of electric washing machines. When a consumer goes out to buy an electric washing machine she spends a considerable sum and she wants to make sure that she is getting the very best that she can. She is placed in a very bad position when she has to go out and make a selection from 134 brands.

Mr. MONTGOMERY. Suppose she has made her selection among these so many brands and finds that she likes a certain brand and decides to stick with it. What happens then?

Mrs. ROLLER. Well, for one thing, there is what the informed consumers know as a turnover. We can go to a store and decide that a certain brand is a brand that happens to suit our particular need, and then when we go back for that brand we find that that brand is not available.

Mr. MONTGOMERY. Has that ever happened to you?

Mrs. ROLLER. Now that isn't true usually of nationally advertised brands. I have never seen it happen with a nationally advertised brand, but there are so many brands that are not nationally advertised and that very often does happen and has happened to me. I will go to a sale at a chain store, for instance, and like a certain product that is on sale, or it may not even have to be on sale, and when I go back for it a few weeks later or at the next sale I won't find that particular brand.

I studied the chain store inquiry carried on by the Federal Trade Commission, and they had something to say on that very subject of turnover. Can I read you what that is?

Mr. MONTGOMERY. Yes, if it is short.

Mrs. ROLLER. All right. They were testing quality of canned goods, and they went around and selected a number of cans and brands that they wanted to test. Two months later they went back to buy the brands and they found that all of the brands that they wanted were not available. This is what they said in the report:

The failure to procure a higher proportion of the samples ordered was due in part to the fact that it was not possible to place the orders until more than two months after the close of the pricing period for which the brand names had been obtained. The merchandise involved does not flow steadily from producer to the consumer and the brands purchased by distributors vary considerably from time to time.

Mr. MONTGOMERY. Now, Mrs. Roller, suppose you found your way through all these brands, got the one you want, and you got a brand that seems to be perfect. You were in pretty good shape, weren't you?

Mrs. ROLLER. No; because I have found that brand is not always a guide to quality.

Mr. MONTGOMERY. Have you got some examples of that?

Mrs. ROLLER. Yes; in my own personal experience, I have bought canned peaches in a chain store and then at a later date bought the same brand in another store that was not a chain, and found that the quality was absolutely different. Even I as a consumer could see it.

The CHAIRMAN. How are you going to avoid that, Mrs. Roller. Even before we had the canning of peaches, of fruit, the canning of soup, transferred from the home to the factory there was no uniformity in the product of various homes.

Mrs. ROLLER. Well, the point is that if we expect to buy a certain brand and believe that that is a fancy product, that means a grade A product, then if we buy that same brand at another time, surely we have a right to expect that the same product will have that same grade A fancy quality.

The CHAIRMAN. Even the housekeeper doesn't always give him the same high-grade meals at home.

Mrs. ROLLER. Yes, that is true, but when we buy things we want to be able—first of all, canning is done under highly mechanized and careful conditions, and we should get a fairly uniform product. If the product isn't uniform, then we should have the right to know it.

Mr. FERGUSON. Mrs. Roller, the housewife doesn't advertise her meals, does she?

Mrs. ROLLER. No.

The CHAIRMAN. You would be surprised.

Mrs. ROLLER. The point is that if we get a meal that isn't up to par we hear about it from our families, but if we buy a grade that isn't equal to what we have been accustomed to buying, we have no redress.

The CHAIRMAN. It doesn't seem to me, as a practical matter, that you can expect to have uniformity in food products, or even in cigars. Different materials are used, different methods are used under different circumstances. Isn't there bound to be a difference in the product? Some manufacturers are very careful, some are very clean, some are very scientific, and some are just the reverse of that.

Mrs. ROLLER. That is true, but the particular instance I am thinking of right now is a brand that happens to be a high-grade nationally-advertised brand that many housewives have a great deal of confidence in, and if I can go to the store and find that I am getting a high-grade peach under their label, and then go to the store and find that I am getting a low-grade peach of an altogether different size under the same label, then I think I have a right to kick.

The CHAIRMAN. Are you paying the same price for it?

Mrs. ROLLER. Yes; often I pay the same price.

The CHAIRMAN. A producer who would do that would speedily lose business.

Mrs. ROLLER. The point is that many consumers aren't vocal. As I mentioned before, we don't have any money, we don't have any organization, we have no way of letting our needs be known, and we have no way of voicing our protests.

The CHAIRMAN. When you found that this brand of peaches was not up to the standard you had anticipated, you didn't buy that brand a second time?

Mrs. ROLLER. No, I didn't; and since I have had experiences of that sort, I am very careful to try and buy graded canned fruits and vegetables whenever possible. But this process of educating the consumer is a very slow one, and it takes money, which we don't have, and the result is that the consumers don't know.

Mr. MONTGOMERY. You have been pointing out, Mrs. Roller, that one way the consumers do select goods is by brand, and when they do buy on a basis of brand they may not be getting always the same quality.

Mrs. ROLLER. Exactly.

Mr. MONTGOMERY. I think the chairman agrees with you on that. You have some charts you were going to show us on this question of variation in quality?

Mrs. ROLLER. Yes; I have.

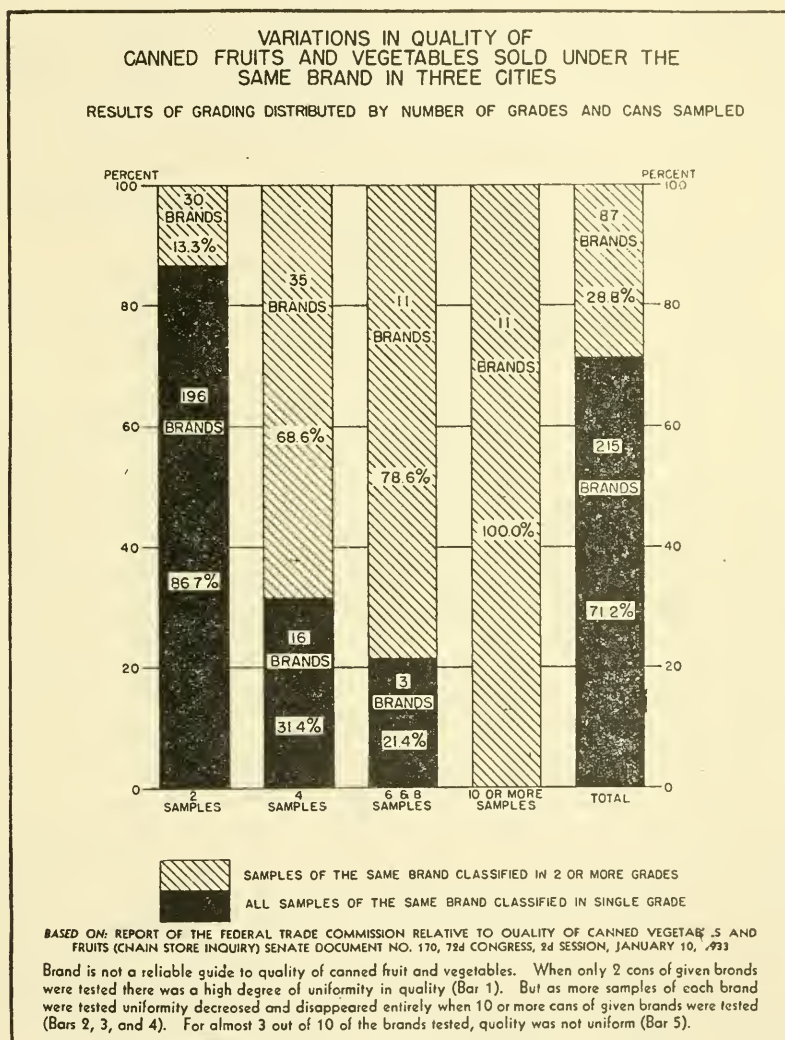
While he is getting the chart out I would like to read to you a quotation that I took from this Federal Trade Commission report on canned goods. One of the paragraphs in the report said:

Wide variations in the quality of canned vegetables and fruits packed under identical labels were found in the case of a number of brands. This type of variation was found alike in the brands of chains, manufacturers, wholesalers, and cooperatives.

Mr. MONTGOMERY. Now, let me ask you some questions about that chart. Tell us what that chart is.

(The chart referred to was marked "Exhibit No. 511" and appears below.)

EXHIBIT No. 511



Mrs. ROLLER. This chart shows what happened when brands were graded by the Department of Agriculture. In this column we see what happens when two samples of the same brand were tested. When two samples of one brand were tested, 86.7 percent of the brands tested fell into one grade and only 13.3 percent of the brands tested fell into more than one grade.

But when four samples of each brand were tested, we have a slightly different story. The percentage goes down, and we find that only 31.4 percent of the brands tested fell into one grade and 68.6 percent of the brands tested fell into two or more grades.

Mr. FERGUSON. Who made these tests; the Food and Drug Administration?

Mrs. ROLLER. No; the Bureau of Agricultural Economics.

When six or eight samples of each brand were tested, only 21.4 percent were uniform and 78.6 percent of the brands fell into two or more qualities. This tends to show that the more samples of a particular brand that are tested the greater the variety of quality you find under that particular brand.

In this column, when 10 or more samples of a particular brand were tested, we have 100-percent variation. That means that all the samples fell into more than one brand.

Mr. MONTGOMERY. More than one grade.

Mrs. ROLLER. I mean more than one grade. Thank you.

This shows that brand is not always a reliable guide to the quality in canned fruits and vegetables.

(The chart referred to was marked "Exhibit No. 512" and appears on p. 3317.)

Mrs. ROLLER. The next chart shows what happens when we consider the same problem, not from the point of view of brand, but from the point of view of number of cans tested. I think that the last column here is the most important one. Here we have the total. When you consider the total number of cans that were graded we find that 51.5 percent of the total number of cans fall into one grade and that 48.5 percent fell into more than one grade, so that when you consider it from the point of view of the number of cans rather than brands, you find that you have a greater percentage of variation in number of cans tested.

Mr. MONTGOMERY. That black area on that chart shows, doesn't it, in that column, the number of cans in which there was uniformity of grade under each brand tested?

Mrs. ROLLER. Yes.

Mr. MONTGOMERY. You said they were all in the same grade. You didn't mean that.

Mrs. ROLLER. This black bar shows that 51.5 percent of the cans tested fell into one grade. This area above shows that 48.5 percent fell into, were classified into, two or more grades.

The CHAIRMAN. In other words, when classified by cans instead of by brand, you had less variation than when classified by brand alone.

Mrs. ROLLER. No; just the reverse is true. When you consider the brand you have 71.2 percent that were uniform and 28 percent that were not uniform, but when you consider cans—

The CHAIRMAN (interposing). Let me get that clear. In that last column you have 215 brands.

Mrs. ROLLER. That is right.

The CHAIRMAN. Does the column indicate that those 215 brands were all of the same grade?

Mrs. ROLLER. Yes.

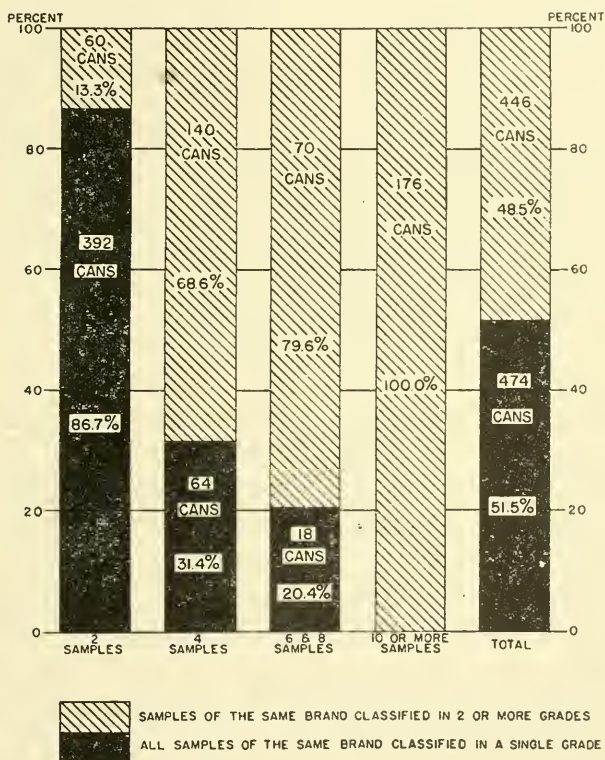
The CHAIRMAN. On the second chart you have 474 cans, and they were all of the same grade?

Mrs. ROLLER. That's right.

The CHAIRMAN. But you don't indicate how many different brands there were among those.

EXHIBIT No. 512

VARIATIONS IN QUALITY OF
CANNED FRUITS AND VEGETABLES SOLD UNDER THE
SAME BRAND IN THREE CITIES
RESULTS OF GRADING DISTRIBUTED BY NUMBER OF GRADES AND CANS SAMPLED
(BRANDS WEIGHTED BY NUMBER OF CANS SAMPLED)



BASED ON: REPORT OF THE FEDERAL TRADE COMMISSION RELATIVE TO QUALITY OF CANNED VEGETABLES AND FRUITS (CHAIN STORE INQUIRY) SENATE DOCUMENT NO. 170, 73d CONGRESS, 2d SESSION, JANUARY 10, 1933

Summarizing the results of the same survey by number of cans, it is found that for almost half of the cans purchased brand was not a reliable guide to quality.

Mr. MONTGOMERY. It is the same sample, Mr. Chairman.

Mrs. ROLLER. The interesting thing here is the percentages. When you consider the percentages and consider it by can, you find you have 48.5 percent that classified in two or more grades. When you consider brand, you find that you have only 28.8 percent that showed a variation. Do you get that?

The CHAIRMAN. Yes; I hear what you say. Now what is your conclusion from that?

Mrs. ROLLER. I think it is really bad to draw a conclusion, because I don't believe enough cans were sampled, and enough brands.

The CHAIRMAN. You are telling us to pay no attention to the charts which you have brought before us?

Mrs. ROLLER. I want to be very careful in what I say, and I don't want anyone to think that I am an extremist in any way.

The CHAIRMAN. You do have a conclusion, don't you?

Mrs. ROLLER. The conclusion that I have to make is that this shows a tendency. The tendency is that the greater the number of cans per sample, the greater the number of cans per brand that are tested, the greater the variation you find of grade in the brand.

Somebody doesn't get it, so I would like to say it again.

The CHAIRMAN. Proceed, then.

Mrs. ROLLER. There are certain grades that have been set up; A, B, C, and Substandard. When these cans were tested they fell into different grades. They fell into A, B, or C, or Substandard. Now, when 226 brands were studied, it was found that 196 brands, or 86.7 percent of the brands, fell into one grade. That means that the two samples for each of these brands, each of these 196 brands, rated the same. For instance, Smith Co.'s brand, two of the samples both fell into the same grade. Thirty brands, or 13.3 percent of the number that were tested, showed a variation. Two cans were tested, one of them fell into one grade and one of them fell into another, so that you didn't have a consistency of grade.

The CHAIRMAN. So that the more cans you tested the more variation there was?

Mrs. ROLLER. Yes.

Mr. MONTGOMERY. I don't think it is necessary to go through all those figures again. Your fourth column shows what?

Mrs. ROLLER. The fourth column shows that when 10 or more samples were taken of 11 brands, you have a 100 percent variation.

Mr. MONTGOMERY. That is, on no brand was there uniform grade?

Mrs. ROLLER. Exactly.

Dr. LUBIN. Does this mean if anybody wants to buy any of the canned products that you covered there, the chances are that no two cans necessarily will be alike, even though you pay the same price for the contents?

Mrs. ROLLER. Yes; I think that is true.

Mr. MONTGOMERY. Now, what is the package that you had there, Mrs. Roller. Tell us what that is.

Mrs. ROLLER. This package is a package of cans that is available to home-economics people and to homemakers. It is sent out by one of the large canners in the country. This exhibit shows that you can have one name and one slogan on more than one grade, and it is a very difficult thing for the consumer to tell which grade she is buying.

This chart comes with this little display, and explains to the person who has the display just how to read the labels.

The chart says that anything packed under the black label is "Fancy."

This canner labels his cans. Now, when the consumer goes into the store and wants to buy a "Fancy" product or grade A, she is supposed to know that this black band on the can means "Fancy." In other words, when we go out we need this chart to help us buy the grade.

This can doesn't have that little black mark, otherwise the label is the same. You see this blue triangle and the name of the packer.

This chart says that what is packed under the blue and white label is either "Choice" or "Deluxe." There is a difference in size in the "Choice" product and the "Deluxe," but of course we have no way of telling that, because they haven't put another bar on here to show that.

MR. MONTGOMERY. Are the "Choice" and "Deluxe" products of the same grade?

MRS. ROLLER. "Choice" and "Deluxe" are the same grade, but they are not as good a grade, according to this, as the "Fancy."

Incidentally, the can says, on this can of pears, which is either choice or de luxe—

MR. MONTGOMERY (interposing). Second grade, according to the chart?

MRS. ROLLER. Second grade, according to the chart. Can I read the names of the brands? Well, it is not necessary [reading from the label] "The brand is also your guarantee of receiving our highest quality," and "highest quality" is in larger type. That leads you to believe that this is the highest quality, and, of course, this isn't the highest quality, because it doesn't have the black bar. So that if we buy by brands we have to go out with charts and tables to help us buy the grade that we happen to need.

The CHAIRMAN. Who makes the chart available?

MRS. ROLLER. The chart is available to anyone. I wrote a letter and received one free.

The CHAIRMAN. Sent out by the packer?

MRS. ROLLER. Yes; sent out by the packer. You write to the packer's home economics department.

The CHAIRMAN. And any consumer may obtain this chart?

MRS. ROLLER. Yes. Incidentally I have had this chart for some time and I still haven't learned all I am supposed to know according to this.

MR. MONTGOMERY. You have sample exhibits of towels you made up, Mrs. Roller. Will you show us those?

MRS. ROLLER. Yes. This exhibit is a picture of what faces the consumer when she goes into a store to buy towels. We see all these towels on the counter with all these different prices and that is all that we know about the quality. We have no way of telling whether one quality is any better than the other, or just how much better.

MR. MONTGOMERY. Do they have a brand on them?

MRS. ROLLER. They all have a brand on them and they all have the same brand. This is a case of one brand putting out a product of many qualities.

Mr. MONTGOMERY. To get that into the record, will you state what the price variations are within a single brand?

Mrs. ROLLER. One brand is shown on this upper part of the chart. The prices are 38 cents, 50 cents, 59 cents, 75 cents, and \$1—all these towels were the same size.

Here we have another brand; all the labels are identical and they don't say anything except the name of the brand, and in a few cases "color guaranteed fast."

In the lower part of the chart the prices are 14 cents, 15 cents, 25 cents, 39 cents, 50 cents, and \$1.

Now, it is very difficult for a consumer to buy towels, for a number of reasons. First of all, there are no facts of quality on the label and the sales person doesn't usually know the facts of quality herself. I was interested in this problem and spoke to people in the textile division of the Bureau of Home Economics, and they told me that one of the best ways to tell the quality of a towel is to cut a strip from it. Now, just how consumers are going to buy by cutting strips is more than I can see, but that is the only way that we can tell quality today.

Mr. MONTGOMERY. What information did you get from the Bureau of Home Economics about the variation of quality under a given brand?

Mrs. ROLLER. I have a chart on that.

Mr. MONTGOMERY. Will you show us that?

(The chart referred to was marked "Exhibit No. 513" and appears on p. 3321.)

Mrs. ROLLER. This chart shows the variations in construction and weights of two brands of cotton Turkish towels purchased on the Washington retail market during 1934.

From here to here we have a list of brand A. All these towels were in one brand [referring to left column in top section]. They ranged in price from 14 cents to \$1.00; 14 cents, 23 cents, 25 cents, 29 cents, 50 cents, 79 cents—

Mr. MONTGOMERY (interposing). Don't go into the details.

Mrs. ROLLER. These towels were tested by the Bureau of Home Economics and they found that there is a difference in the construction of these towels, that the thread count, which means the number of threads per square inch, varies all the way down the line. You can have any place from 23 to 41 threads, 42 threads in the ground, and a variety of numbers of threads in the pile, and in the filling. The more threads that you have, of course the better the towel.

They showed me that the type of ply—the ply means this thread that runs down through the length of the towel—can be either single ply or double ply. Double ply means that two threads have been wound closely together and are used as one thread. When you have a double ply you have a better towel. When the consumer goes out to buy a towel she has no way of telling whether the towel is double ply or single ply, or what the thread count is. In other words, we have no way of telling what the construction is, and so have no way of making an intelligent purchase.

Mr. MONTGOMERY. What is the last column?

Mrs. ROLLER. The last column is weight per square yard, and that is a very important column because the heavier a towel is the more absorbent a towel is.

EXHIBIT No. 513

VARIATIONS IN CONSTRUCTION AND WEIGHTS OF 2 BRANDS OF COTTON
TURKISH TOWELS PURCHASED ON THE WASHINGTON RETAIL MARKET DURING 1934,

BRAND A

| PRICE (DOLLARS) | THREAD COUNT | | | TYPE OF PLY IN GROUND | WEIGHT PER SQUARE YARD (OUNCES) |
|--------------------|--------------|------|---------|--------------------------|---------------------------------------|
| | GROUND | PILE | FILLING | | |
| .14 | 23 | 45 | 26 | SINGLE | 7.5 |
| .23 | 23 | 46 | 26 | " | 9.2 |
| .25 | 22 | 42 | 25 | " | 8.6 |
| .25 | 22 | 44 | 25 | " | 8.9 |
| .29 | 42 | 41 | 33 | " | 10.2 |
| .38 | 25 | 51 | 32 | " | 13.3 |
| .39 | 23 | 45 | 26 | " | 12.4 |
| .39 | 42 | 42 | 36 | " | 11.0 |
| .39 | 42 | 42 | 36 | " | 11.2 |
| .50 | 41 | 41 | 37 | " | 10.4 |
| .55 | 38 | 37 | 39 | " | 13.4 |
| .59 | 40 | 39 | 42 | DOUBLE | 13.6 |
| .79 | 38 | 38 | 40 | " | 11.1 |
| 1.00 | 41 | 41 | 45 | " | 14.5 |

BRAND H

| PRICE (DOLLARS) | THREAD COUNT | | | TYPE OF PLY IN GROUND | WEIGHT PER SQUARE YARD (OUNCES) |
|--------------------|--------------|------|---------|--------------------------|---------------------------------------|
| | GROUND | PILE | FILLING | | |
| .50 | 37 | 37 | 40 | DOUBLE | 12.5 |
| .59 | 38 | 38 | 35 | " | 11.4 |
| .75 | 28 | 55 | 37 | " | 15.4 |
| 1.00 | 31 | 31 | 43 | " | 13.5 |
| 1.25 | 32 | 31 | 42 | " | 14.6 |

SOURCE: M. B. HAYES AND R. E. ELMQUIST
(BUREAU OF HOME ECONOMICS, U. S. DEPARTMENT
OF AGRICULTURE) "PHYSICAL AND CHEMICAL
PROPERTIES OF SOME TURKISH TOWELS." JOURNAL
OF HOME ECONOMICS, VOL. 27, NO. 9, NOVEMBER, 1935

These two examples illustrate that the brand name on a towel is not a designation of quality.

For each brand there is a wide range of price, thread count, and weight per square yard (which measures the capacity of a towel to absorb water).

The CHAIRMAN. Haven't all these samples been graded actually according to their price?

Mrs. ROLLER. Here?

The CHAIRMAN. No; on the other chart; for example, the 38-cent towel is a less well constructed towel than the towel that sells for 75 cents or the towel that sells for a dollar.

Mrs. ROLLER. Well, we have an example of that. If you don't mind, I won't take the 38-cent one but the 59 and the 79. Here you have a towel selling for 59 cents; here you have a towel selling for 79 cents, the same brand. In the ground in the 59 we have a thread count of 40, in the 79 a thread count of 38, not as good. We have a thread count in the pile of the 59-cent one of 39 and of 38 in the 79-cent one.

The CHAIRMAN. Is there any factor that is in the 79-cent one that is not in the other which would account for that difference?

Mrs. ROLLER. No; there isn't. When I went over these charts I asked about that, and I was told that there is no other factor that would affect it. Possibly style might; but if it is a difference in style, then the consumer has a right to know that she is paying for style and not for quality.

The CHAIRMAN. You can see style, can you not?

Mrs. ROLLER. Yes; but how do I know that it is style that I am paying more for? There isn't a sample of that here, but all of these towels that were tested were selected because they were pretty much the same. They were white towels with a slight colored border, so that style is approximately the same, and, of course, the size was the same; and, according to this chart, the weight on the more expensive one is less than the weight on the cheaper one, so that the less expensive one is more absorbent than the more expensive one. When you go through that, this shows that the cheaper one is a better quality than the more expensive one; and, of course, when we go out to buy it we don't know that.

The CHAIRMAN. Well, how about the quality of the material it is? Though the count of the thread may be less, the thread itself may be of a superior quality. Is there any possibility of that?

Mrs. ROLLER. Well, so far as I understand, towels are made pretty much in the same way and with the same material. The only difference is—

The CHAIRMAN (interposing). Have you, yourself, examined these towels?

Mrs. ROLLER. I have examined these and—

The CHAIRMAN (interposing). Those samples?

Mrs. ROLLER. Those samples.

The CHAIRMAN. Where did you get the samples?

Mrs. ROLLER. From the Bureau of Home Economics; and I have studied their charts and their written publications, and they have set up a proposed specification of construction on towels and they don't mention the material that it is made of, so I imagine that it is made out of pretty much the same material.

The CHAIRMAN. How about that, Mr. Montgomery? Let's get the Bureau of Home Economics here and let them answer it.

Mrs. ROLLER. I have their table here, if anyone would like to see it.

Mr. MONTGOMERY. These are the figures they gave you, aren't they, Mrs. Roller, as indicating the quality of the towel?

Mrs. ROLLER. These are the figures.

Mr. MONTGOMERY. This is the test made by them, isn't it?

Mrs. ROLLER. Yes.

Mr. MONTGOMERY. These are the figures they used as indicating the different qualities of the towels?

Mrs. ROLLER. Yes.

Mr. MONTGOMERY. Didn't they tell you the most important factor is that in the last column?

Mrs. ROLLER. This is the most important factor. We all want towels that will absorb, and the more a towel will absorb the better it is, and it is quite obvious that the towel whose weight is 13.6 will absorb more than a towel whose weight is only 11.1, because tests have proven that the greater the weight, the more absorbent the towel is.

Dr. LUBIN. Mrs. Roller, according to that chart, then, if the last column is the most significant factor, the brand H selling at 75 cents—brand H—is the best product—far better than anything that sells for more than that price in either brand?

Mrs. ROLLER. Yes; that is true. Brand H sells for 75 cents and has a weight of 15.4 ounces per square yard, as against 14.6 for \$1.25 towel. There is a saving right there of 50 cents on one item, and that is a whole lot.

Mr. MONTGOMERY. What is the information you have on blankets, Mrs. Roller?

Mrs. ROLLER. This again is an example of using one brand name on a variety of products having different qualities; that is, one company will put out any number of blankets of different quality and use the very same label, so that the consumer has absolutely no way of telling when she goes in to buy a blanket which one is the best quality. Now, this is a chart that was taken from the publications of the Bureau of Home Economics and this chart shows the three types of blankets that were tested.

(The chart referred to was marked "Exhibit No. 514" and appears on p. 3324.)

We have one brand that was all cotton, another brand that was part wool—and that was 5 to 25 percent wool—and a third brand that was all wool. Now, this chart shows the variations in weight per yard in breaking strength and in heat transmission of various blankets put out under one brand name, and no indication of this, of course, is given to the consumer.

The CHAIRMAN. Are the blankets offered at different prices?

Mrs. ROLLER. I don't know anything about the prices. That information wasn't given to me, but whether the prices were identical or not identical doesn't seem to me to be the important point here. The important point is that the consumer has absolutely no way of telling when she is going out to buy what the quality is and what the construction is.

Now this all-wool blanket, for instance—we have three blankets put out by one brand. Now one of them may be more expensive than another, it is true, but that may be heavier and it may be lighter than another one—and some people need light blankets and some people need heavy blankets, so the price isn't the important factor.

Mr. MONTGOMERY. Isn't it true that the brand is the only designation the consumer gets about those blankets—about each of those three blankets?

Mrs. ROLLER. Yes; the only thing that we get is the little brand label and all that that tells us is what the name of the company is.

The CHAIRMAN. Is it supposed to tell you anything else?

Mrs. ROLLER. It isn't?

The CHAIRMAN. I say, is it?

Mrs. ROLLER. Well, I as a consumer would certainly like to know when I buy a blanket how heavy it is. I happen to like a heavy blanket.

EXHIBIT NO. 514

VARIATIONS IN WEIGHT, BREAKING STRENGTH AND
HEAT TRANSMISSION OF THREE BRANDS OF BLANKETS

| BRAND OF BLANKET | WEIGHT PER SQUARE YARD | BREAKING STRENGTH GRAB | | HEAT TRANSMISSION |
|-------------------------|---------------------------|------------------------|---------|----------------------|
| | | WARP | FILLING | |
| | OUNCES | LBS. | LBS. | |
| BRAND I (ALL COTTON) | | | | |
| A | 4.3 | 22.0 | 10.4 | .156 |
| B | 5.0 | 41.2 | 14.2 | .164 |
| C | 5.1 | 41.4 | 13.2 | .170 |
| D | 5.2 | 40.1 | 13.7 | .161 |
| E | 5.6 | 28.4 | 12.9 | .134 |
| BRAND II (PART WOOL) | | | | |
| A | 6.5 | 27.3 | 11.4 | .130 |
| B | 6.7 | 27.0 | 11.0 | .119 |
| C | 7.6 | 26.6 | 14.8 | .106 |
| D | 9.8 | 28.8 | 18.4 | .089 |
| E | 10.1 | 32.4 | 29.1 | .120 |
| BRAND III (ALL WOOL) | | | | |
| A | 12.3 | 38.2 | 20.9 | .093 |
| B | 12.5 | 31.5 | 21.5 | .058 |
| C | 13.0 | 39.7 | 51.9 | .065 |

Based on: M. B. Hays, "Suggested consumer specifications for six classes of blankets," Rayon Textile Monthly, February 1939.

These examples show that brand names of blankets are not designations of quality.

Neither weight, strength, nor warmth were uniform.

This was true for brands used on cotton, part-wool, and all-wool blankets.

Mr. MONTGOMERY. That isn't an answer to his question. The chairman asked whether the brand was supposed to tell you anything else than just the name of the person who made it.

Mrs. ROLLER. The brand isn't, no; but the label I think should.

Mr. MONTGOMERY. You have seen a good deal of advertising and so on that tells you to rely on a certain brand?

Mrs. ROLLER. Yes; I certainly have. As a matter of fact, in one of the most recent issues, May issue of one of the women's magazines, there is an article telling consumers that they should rely on brand.

Mr. MONTGOMERY. And what you are showing here by your exhibit—

Mrs. ROLLER. I am showing that brand doesn't tell you a thing. I am trying to show you here that brand doesn't tell you a thing, and that we really need more information than brand.

The CHAIRMAN. Didn't I understand you to say a little earlier in the afternoon that so far as certain nationally advertised brands are concerned, that isn't true?

Mrs. ROLLER. What isn't true?

The CHAIRMAN. The conclusion which you have just expressed.

Mrs. ROLLER. What I am trying to bring out is that none of these things have any specifications and that we would like to buy according to the specification, and that is true not only in blankets and towels and sheets and things of that sort, but also true in the case of canned goods.

The CHAIRMAN. Well, the whole purpose of your testimony, then, is to indicate the desirability from your point of view of standard grades, regardless of brand?

Mrs. ROLLER. Yes; and I would also like to point out that we want more information about the things that we buy.

Mr. MONTGOMERY. You didn't testify earlier this afternoon, though, did you, that certain nationally advertised brands are a guarantee of uniform quality?

Mrs. ROLLER. No; I testified—

The CHAIRMAN (interposing). I don't know the word that was used, but there was some statement.

Mr. MONTGOMERY. I think she said that national brands can always be found in the store. She was talking at the moment of the question of getting used to a brand and then it would disappear. Isn't that correct?

Mrs. ROLLER. Yes; I was talking about turn-over. I said that when you go into a store to buy something, if you buy a nationally advertised brand you can be pretty sure that it will be in the store the next time you come in; but if you buy one that isn't, you don't know whether you will find it there.

Mr. MONTGOMERY. I think that is enough of that exhibit, with that general explanation. The figures and the record will speak for themselves.

NEED FOR STANDARD SIZES

Mr. MONTGOMERY. You said you had two samples of loaves of bread, didn't you, that illustrated this question of difference in brands? What was the difference there?

Mrs. ROLLER. These two loaves of bread I purchased this morning in a local grocery store. Now here we have one brand.

Mr. MONTGOMERY. The brand is the same?

Mrs. ROLLER. The brand is the same and the label is absolutely identical. The interesting point here is that this small loaf weighs 16 ounces and sells for 9 cents; this large loaf weighs 18 ounces and sells for 12 cents, so that you get only 2 ounces more for 3 cents.

I get more bread for my money by buying the small loaf than I do by buying the large loaf of the same brand. It pays me to buy two of these small loaves instead of one of these large ones.

Mr. MONTGOMERY. You had some cans of applesauce, too, didn't you? Let's see the applesauce.

Mrs. ROLLER. This is an example of brand as a guide to quantity. When we go into the store—I have seen this can on the shelf. This is applesauce and it sells for two—

The CHAIRMAN (interposing). Are you referring to the testimony?

Mrs. ROLLER. I am referring to the contents of the can. This can sells for two for 15 cents, and it contains 1 pound 5 ounces. When they have special sales on in the stores this can comes off the shelf; this can [indicating another] comes on the shelf; looks exactly the same, has the same identical label, and this can contains 1 pound 2 ounces as against 1 pound 5 ounces. That is a case of deliberate—

Mr. MONTGOMERY (interposing). What is the price on special sale?

Mrs. ROLLER. On the special sale this can sells for 5 cents. The point is that the consumer would like to know when those substitutions are being made, because unless we see the two cans right up next to one another, even if they are far apart like this I don't think you can tell the difference.

Mr. MONTGOMERY. Do you know that consumers have been fooled by that?

Mrs. ROLLER. Yes; I certainly do because some of the women in the clubs that I belong to have pointed things out like this to me.

Dr. LUBIN. What is the price of the big can?

Mrs. ROLLER. Two for 15.

Mr. MONTGOMERY. Do you have those boxes of crackers?

Mrs. ROLLER. Yes; there were supposed to be two boxes of cookies but one got lost on the way up here. This box sells for 5 cents and it contains 1½ ounces. Now, the same cookie in a larger box sells for 10 cents and—

The CHAIRMAN (interposing). Was it the larger box that got lost during the noon hour?

Mrs. ROLLER. That is the larger box.

The CHAIRMAN. During the noon hour?

Mrs. ROLLER. I believe so; I saw it at 11 o'clock. Well, this small box contains 1½ ounces and the large box contains 2½ ounces of the same crackers. In other words, if I buy two of these boxes for 10 cents, they are a nickel apiece; I would be getting 3 ounces of this cracker; if I buy the 10-cent box I would be getting only 2½ ounces for 10 cents. Now that may not seem very much, but when you consider the fact that there are only 1½ ounces in this box, the extra half-ounce difference means a third of the box, so that if I buy two of these for 10 cents I am getting a third of a box more than if I am buying one of the larger size for 10 cents.

The CHAIRMAN. So the person who spends the nickel has the advantage over the person who spends the dime?

Mrs. ROLLER. Exactly.

Mr. MONTGOMERY. Has the committee any further questions of Mrs. Roller? We have had the dessert now and we can close the testimony on that.

Mr. FERGUSON. Mrs. Roller, I have been very much interested in your testimony, not only as a member of the committee but also as a

member of the Federal Trade Commission, because the Federal Trade Commission has for many, many years undertaken as best it could to prevent mislabeling, misbranding, and false and misleading advertising. The Commission can only act in the interests of the public, and we consider the consumer is a very major portion of the public. I just wanted to ask you whether or not in your investigations and your studies you hadn't found that the Commission had issued orders and had stipulations to cease and desist from thousands of cases of misbranding and mislabeling and false advertising of all kinds of products.

Mrs. ROLLER. Yes, I have; but I have also seen many cases where the Federal Trade Commission's rulings were just disregarded. I think the case of Philippine mahogany—

Mr. FERGUSON (interposing). Have you ever brought those to the attention of the Commission?

Mrs. ROLLER. No; I haven't. That is one of the many things I didn't know I could do.

Mr. FERGUSON. You know that any person or individual has a perfect right to bring matters of that kind to the attention of the Commission?

Mrs. ROLLER. No; I didn't know that.

Mr. FERGUSON. And that the Commission has not sufficient funds or personnel to police the whole United States and undertake to or couldn't possibly discover every case of misbranding or misleading advertising, and ordinarily unless something happens to come to our attention that we can only act on information that comes to us from the public?

Mrs. ROLLER (nodding head, "Yes").

Mr. FERGUSON. And the Commission would welcome information from you or any organization that you represent or any housewife at any time where anyone is misbranding the goods or misrepresenting their goods?

Mrs. ROLLER. Well, I will remember that.

The CHAIRMAN. Do you happen to know whether the canner of the applesauce has distributed diagrams such as that which you showed with the previous cans to advise the consumer how to choose the best bargain?

Mrs. ROLLER. No, I don't; but this business of the two cans of applesauce seems to me to be an example of this problem of the number of cans that are available, the number of sizes of cans that are available, and it is one of the problems that consumers face. The consumers that I know are very much in favor of standardization of can sizes. We feel that we need a variety of sizes, but certainly not such small differences as this [indicating the two cans of applesauce]. I think it was about 2 weeks ago I attended a meeting in Beltsville, a little section not very far from where I live, and the speaker there was a representative of the National Canners' Association, who was down here in Washington attending the food and drug hearings, and at that meeting in Beltsville he said that the National Canners have to go to bat every year—have had to go to bat every year for the past couple of years to fight measures which would tend to unify can sizes; and he said that he was fighting with the consumer because he believed that the consumer wanted this wide variety of sizes that we find today.

That absolutely isn't a fact because all the consumers that I know, feel that the great number of sizes that are available today simply tend to confuse us and if there were a standardization of sizes that we could buy very much more intelligently. We did not agree with this man who came from the National Canners' Association.

Mr. MONTGOMERY. You mean that he was saying the Canners' Association was against the standardization of canned sizes?

Mrs. ROLLER. Oh, yes; he said they came to Washington to fight any bill to standardize sizes of cans.

The CHAIRMAN. Any further questions of this witness?

Mr. WHITE. I wonder if I might ask a question, going back to that packet which you had there prepared for educational purposes by a large canner. There are a number of cans there and on those I noticed—I think I notice from here—a rectangular area set aside on which there was considerable information which I take it is to give information about the contents of the can. I would like to know what you think about that type of information on a label.

Mrs. ROLLER. I think that this type of information is very nice but that it doesn't give you the important thing. For instance, this can of peas, which happens to be a grade A pea and has the black band, has a picture here of the various sizes ranging from size 1 to size 6 extra large, and there is an arrow pointing that this is size 4, medium large. I think that is very nice to know, but I don't think that is terribly important. I think what would be much more important would be if they said fancy grade A, "so that we could tell the grade; and on this one that doesn't have that black bar, the only informative labeling here is "the brand is your guaranty of our highest quality," and then it says:

Approximately 50 to 59 cherries of uniform size packed in heavy syrup.

Doesn't say whether they are pitted or not; doesn't say what the grade is, and according to their own chart the cherries can be one of two sizes.

Mr. WHITE. Your opinion, then, is that that is better than many of the other labels, but not as satisfactory as you would like to see it?

Mrs. ROLLER. Yes; that is true.

Mr. FERGUSON. Mrs. Roller, you said that you knew of cases where the Commission's orders had been violated. Do you mean that they had been violated by the person against whom an order had been issued, or that some other person had done the same thing.

Mrs. ROLLER. I happen to have read this digest of important rulings of the Federal Trade Commission and in that it gives a list of rulings that the Trade Commission has made, one of them against broadcloth; says that English broadcloth material cannot be labeled or sold as English broadcloth unless it actually comes from England. Now I know I have bought material that certainly wasn't English.

Mr. FERGUSON. When you say the order has been disobeyed or violated, you don't mean by the person against whom the order had been issued but someone else had done the same thing?

Mrs. ROLLER. Exactly.

Mr. MONTGOMERY. Thank you, Mrs. Roller.

(The witness, Mrs. Roller, was excused.)

**TESTIMONY OF DEXTER MASTERS, DIRECTOR OF PUBLICATIONS
CONSUMERS UNION OF U. S., INC., NEW YORK CITY**

Mr. MONTGOMERY. I have to apologize for Mr. Masters' voice; a sudden attack of laryngitis has pretty nearly silenced him, and we hope the microphone will make up the difference. Will you give your name, please, Mr. Masters?

Mr. MASTERS. Dexter Masters.

Mr. MONTGOMERY. Your address, please?

Mr. MASTERS. Consumers' Union, New York City.

Mr. MONTGOMERY. What is your occupation with Consumers' Union, Mr. Masters?

Mr. MASTERS. Director of publications.

Mr. MONTGOMERY. Tell the committee briefly what the Consumers' Union is, will you please?

Mr. MASTERS. It is a nonprofit membership organization, the members of which are also subscribers to publications put out by the service. The organization buys goods, tests them, and gives the results of its tests in the form of ratings by brand name in its publications.

Mr. MONTGOMERY. How many members do you have?

Mr. MASTERS. We have about 80,000 now.

Mr. MONTGOMERY. What is the average subscription cost to these members?

Mr. MASTERS. We get out two services, one at \$3 and one at \$1. The cost probably averages between \$2 and \$2.50 per member. The great majority of the members are subscribers to the \$3 service.

Mr. MONTGOMERY. You, of course, are very familiar with the stories these other consumer witnesses have been telling about—their difficulty in knowing how to spend their money, and how to spend their money wisely. How far do you think the Consumers' Union service meets that problem?

Mr. MASTERS. Well, it doesn't go far enough, and doesn't go nearly so far as the problems go. It is a temporary thing; it is a stopgap to control or to provide a balance to the upset in distribution. That creates the problems. The Consumers' Union method of actually going into the market, buying products, as any consumer buys them, testing them, and serving only the consumer interest, is a circuitous one; it is the long way around because it means that to be effective—ideally effective—we would have to cover every brand in the country and that is, considering our funds, out of the question. But the chief problem that is created is that an advertisement says such and such a product is such and such a quality, or the salesman says the same thing, or general propaganda creates the same impression. We use our method to check up on the advertisement, on the salesman, and on the propaganda.

No individual can do this for himself. The question has arisen here as to just how much a consumer, how much a housewife, can apply, in the direction of wise selection, her own knowledge. To do that at all adequately she would have to be a biologist, a chemist, a physicist, and a number of other things. We attempt to do the job

collectively and give the individual consumers the benefit of that information.

I might compare the Consumers' Union or any organization operating on that basis to insulin in the control of diabetes; that is, insulin does control it by providing a counterbalance, but the important thing would be to prevent the diabetes. Whether the upset in distribution is as incurable as diabetes, I don't know.

PRICE NOT A GUIDE TO QUALITY

Mr. MONTGOMERY. Mrs. Roller was discussing the difficulty of the consumer who tries to buy commodities simply by relying on the brand. You said you are going to present some testimony showing whether or not consumers instead of relying upon brand can make their selections on the basis of price. Will you give us some specific examples of the difficulty that the consumers will run into if they attempt to make their purchases on the basis of price? What is the first one you are going to bring?

Mr. MASTERS. The first thing I would like to say is that I think it is virtually impossible for the consumer to use price as a reliable guide. The first illustration of that that I would like to bring forth here is milk.

Mr. MONTGOMERY. The committee had testimony last week from the milk companies about the quality of milk and what they were doing to improve the quality.¹ Your exhibits go into that question, don't they, of the same companies?

Mr. MASTERS. I think they do.

Mr. MONTGOMERY. Will you tell us what your examinations have shown?

Mr. MASTERS. The basis of my testimony here is two separate tests we have made to discover the difference, if any, between grade A and grade B milk in New York City. Grade A, as you know, costs 3 cents per quart more. The first test we made, in February of 1936, we took 57 samples of grade A and grade B of the two leading brands distributed in New York City. In bacteria count, which is a reflection on the handling of the milk, the purity of it, we found no difference. Grade A for New York City has a minimum requirement of 10,000 colonies per cubic centimeter for both grade A and grade B—or 30,000, I beg your pardon. Both grades A and B ran about 10,000 colonies per cubic centimeter. In one instance the grade B brand far exceeded the minimum requirement, showing 120,000 colonies. Similarly, one grade A brand exceeded the requirements and also exceeded brand B and showed 240,000 colonies. With those exceptions, which are too exceptional to be typical, it can be said that the grade A and grade B, literally speaking, showed no difference in bacteria count.

Mr. MONTGOMERY. They both were, on the average, well above?

Mr. MASTERS. Both, on the average, were well above—or well below, rather, the minimum requirement.

Mr. MONTGOMERY. Better than the minimum requirement

Mr. MASTERS. Better.

¹ See Hearings, Part VII.

Mr. MONTGOMERY. What did the test show on the question of butterfat?

Mr. MASTERS. On the question of butterfat, our first test in February of 1936 showed an average for one brand grade A of 3.67 percent. New York City, incidentally, requires 3 percent for both A and B. Grade B of this same brand showed 3.52 percent, and the other brand, grade A, showed 3.71 percent, and the grade B 3.53 percent. The test we made 6 months or a year later showed a little more butterfat all around; it showed almost exactly the same relative proportion.

The New York City Health Department last year made a test of one of these brands, and not the other, and showed again the same proportion, or even less difference. Their figures on 85 samples were 3.96 percent butterfat for grade A, 3.83 percent for grade B. A way of making the exact meaning of this graphic is to point out that the average difference in butterfat between grade A and grade B was about half a teaspoonful of butter—that is, equivalent to that.

Mr. MONTGOMERY. Half a teaspoonful per quart of milk?

Mr. MASTERS. Per quart of milk. On that basis, if you bought butter at 3 cents for half a teaspoon, it would cost about \$8 a pound.

Mr. MONTGOMERY. Eight dollars a pound for butter?

Mr. MASTERS. Yes; if you can allow the 3 cents difference between grades A and B to the actual excess butterfat you get in A.

Another thing that should be pointed out is that this 3 cents applied to a quart of milk daily would come to well over \$10 a year.

Mr. MONTGOMERY. The difference in butterfat between these averages and these different tests is what?

Mr. MASTERS. Two-tenths of 1 percent. The grade A is not sold nearly as widely as grade B, but that is no fault of the companies.

Mr. MONTGOMERY. Now, this morning there was some discussion of vacuum cleaners when Mrs. Beleston was talking about the picture that she showed, and the question was raised as to how the consumer could be informed about the difference in vacuum cleaners. Has your organization made any tests the results of which would illustrate how those differences in vacuum cleaners could be measured and how they might be shown to the consumer, if the manufacturer were so disposed?

Mr. MASTERS. If he were so disposed he could show some things to the consumer that would be useful. He could make two tests of vacuum cleaners. The first and the most significant result we have found is that one very well-known brand selling at \$29 rated far higher in actual cleaning ability than one well-known brand selling at \$80 and another brand selling at \$60.

Mr. MONTGOMERY. Give us some idea of how you measure the cleaning ability of a vacuum cleaner.

Mr. MASTERS. The method we use, or the method used in the laboratory that made the tests for us—

Mr. MONTGOMERY (interposing). What laboratory was that?

Mr. MASTERS. Electrical Testing Laboratories.

Mr. MONTGOMERY. That is a large, established testing organization?

Mr. MASTERS. Yes; very well known. The method was to prepare a special test dirt, very oily dirt, and grind it thoroughly into a standard piece of carpet. The vacuum cleaners were then run over it under identical conditions for identical periods of time. The idea was to test both speed of removal of the dirt and also thoroughness.

In the instance of the former, in 3½-minute test periods the \$29 machine removed 72 percent of the dirt which had been ground into the carpet, the \$80 machine removed 48 percent, and the \$60 machine removed 47 percent. Now there was a difference between the machines. The \$29 one lacked some gadgets, the stream-lining was not quite so proficient as on the \$80 machine, but in all material respects and all important respects on the basis of use value, the purpose for which a vacuum cleaner is bought, the \$29 one was not only a better cleaner at the price but a better cleaner at any price.

Mr. MONTGOMERY. Did the Electrical Testing Laboratories report go into the question of construction as bearing upon durability?

Mr. MASTERS. Yes; they did. In the \$29 machine, the durability, the probable stamina of the motor, the general construction, all rated high. In the \$80 machine they rated high with one exception, with respect to bearings and part of the motor that would wear out. The \$60 machine was well built.

Mr. MONTGOMERY. Your conclusion from that, then, is that the price would not be a good guide.

Mr. MASTERS. My conclusion is that price is a totally unreliable guide there and that it is unreliable to the extent of costing you \$60 on a single purchase. If these tests can be relied on, and we see no reason to believe that they can't, you would get a worse vacuum cleaner for \$80 than you would for \$30.

Mr. MONTGOMERY. What other commodities have you tested along that same line, to show what price will do in determining the quality you get? Do you have a test of soap?

Mr. MASTERS. Yes; we just recently tested soap, tested it about 3 years ago and just tested it over again. At this time we tested about 130 brands. Federal specifications exist for soap. They don't for vacuum cleaners. We have a standard point of departure in regard to soap.

We found in 130 brands that the price which we figure on, a per pound dry-soap basis, taking out the variables, taking out the moisture, weighing the actual soap—moisture and air go out—varies. In some of the types of soap, incidentally, the moisture may come up to 30 percent of the volume, so it is a considerable amount, a considerable item. We found that the cost of soap, as opposed to the price of the cake, the actual cost of the soap in the cake runs from 9.7 cents per pound of dry soap to \$1.97.

Mr. MONTGOMERY. All of those soaps met the Government specifications for soap?

Mr. MASTERS. Not all of them. The \$1.97 soap fell down in one specification. It wasn't too important a one, but the soap didn't meet all of the Government specifications. Most of the other soaps did. The only really important Government specification is that limiting free alkali, and none of them was seriously deficient in that; although a soap that was deficient in that respect, since that is an important one and is a condition in the soap that needn't exist, and is a Government specification, would be rated not acceptable.

The soap selling at \$1.97 sold for 35 cents a cake, \$1 for three cakes. That figures out \$1.97 per pound of dry soap. That soap fell down on one specification, and compared with a soap very much like it that sold at 5 cents a cake and figured out to 20 cents per pound of dry soap.

As I say, we tested about 130 brands. The only conclusion we could come to was that most of the soap on the market is pretty good, that about nine-tenths of it is overpriced, and that if you are buying, 5 cents can be a guide in getting a good buy in soap. You can let low price be your guide. You get a better soap for less price, actually, than you do for a high price.

Incidentally, the ingredients that go into the soap would not ever justify a price such as \$1.97.

Mr. MONTGOMERY. You mean the additional ingredients, such as perfume, oatmeal, and cold cream?

Mr. MASTERS. Cold cream, oatmeal, rolled oats, and other things that go into soap.

Mr. MONTGOMERY. Even if a person wanted them in his soap they would be paying a pretty high price for them?

Mr. MASTERS. Yes.

Mr. MONTGOMERY. Have you got any figures like that on the question of cosmetics? We still have some ladies left in the room who are interested in this part of the story.

Mr. MASTERS. That is a very fertile field.

Mr. MONTGOMERY. We want to introduce a chart showing variations in sizes and retail prices of cosmetics in Maine.

(The chart referred to was marked "Exhibit No. 515" and appears on p. 3334.)

Mr. MASTERS. We have tested a number of cosmetics; we found a fairly rigid common denominator to the test findings in regard to all of them. That is, of all of the products on the market cosmetics are those in which the gap between cost and price is greatest, in which a fair relation between cost and justifiable price is most rarely reached.

This chart which shows the results of an inquiry by the State of Maine, which has a good department of health, is significant in that it blows up these costs and prices, the differences in cost and price, into figures that begin to sound like something.

Take lip paste and lipsticks, for instance, selling at \$1. The size indicated on the chart figured out, if you applied that retail price on a pound basis, to about \$448 per pound for the ingredients. Those ingredients, in the case of Elizabeth Arden, I don't know. In the case of Springtime in Paris, I know what the ingredients were at the time the test was made.

Mr. MONTGOMERY. What is the cost per pound?

Mr. MASTERS. The cost per pound is relatively low—\$142.40. The ingredients used in the lipstick, based on official figures by which the drug manufacturers purchased at the time of this survey, could not have cost the manufacturers of Springtime in Paris more than 3 cents at the outside; that is, if you figure that out on a pound basis, I think it would come to around \$20, instead of \$142.40.

I think there is an omission in this chart in that it doesn't take into account the container cost, and it is true of cosmetics generally, particularly a cosmetic like lipstick, that the container costs more than the ingredients. That is standard practice.

In the case of Springtime in Paris, the container would cost the manufacturer a maximum of 5 cents, and the ingredients, as I said, a maximum of 3 cents.

EXHIBIT No. 515

VARIATIONS IN SIZES AND RETAIL PRICES
OF A SELECTED LIST OF COSMETICS IN MAINE

| | SIZE | RETAIL PRICE | RETAIL PRICE | |
|-----------------------------------|--------|--------------|--------------|-----------|
| | | | PER OZ. | PER POUND |
| | Oz. | DOLLAR | DOLLAR | DOLLAR |
| <u>DUSTING POWDER:</u> | | | | |
| COTY | 4.7 | .75 | 0.1596 | 2.55 |
| ELIZ. ARDEN | 11.244 | 3.00 | 0.2668 | 4.27 |
| H. H. AYER | 10.170 | 1.65 | 0.1622 | 2.60 |
| DAGGETT & RAMSDELL | 4.883 | .85 | 0.1741 | 2.79 |
| EVENING IN PARIS | 5.02 | 1.10 | 0.2191 | 3.51 |
| <u>FACE POWDER:</u> | | | | |
| COTY | 1.82 | .75 | 0.4121 | 6.59 |
| ELIZ. ARDEN | 5.35 | 3.00 | 0.5607 | 8.97 |
| H. H. AYER | 2.2615 | .60 | 0.2653 | 4.24 |
| DAGGETT & RAMSDELL | 2.934 | .85 | 0.2897 | 4.64 |
| MAX FACTOR | 4.5836 | .75 | 0.1636 | 2.61 |
| HELENA RUBENSTEIN | 2.6444 | 1.00 | 0.3782 | 6.05 |
| RICHARD HUDNUT | 2.479 | .55 | 0.2219 | 3.55 |
| LUZIER'S | 1.872 | 1.00 | 0.5342 | 8.55 |
| <u>LIP PASTE & LIPSTICKS:</u> | | | | |
| ELIZ. ARDEN | .0357 | 1.00 | 28.01 | 448.16 |
| SPRINGTIME IN PARIS | .1404 | 1.25 | 8.90 | 142.40 |
| BOURJOIS | .0700 | .55 | 7.86 | 125.76 |
| <u>ROUGE:</u> | | | | |
| CREAM: | | | | |
| H. H. AYER | .03148 | .55 | 17.47 | 279.52 |
| LUZIER | .3171 | 1.00 | 3.15 | 50.40 |
| PLAIN: | | | | |
| COTY | .148 | .38 | 2.57 | 41.12 |
| MAX FACTOR | .300 | .38 | 1.27 | 20.32 |
| <u>ASTRINGENT:</u> | | | | |
| COTY | 4.0 | 1.00 | 0.25 | 4.00 |
| H. H. AYER | 11.993 | 1.75 | 0.1459 | 2.33 |
| PRIMROSE | 4.0 | .85 | 0.2125 | 3.40 |

BASED ON STATE OF MAINE LEGISLATIVE DOCUMENT 683 -- FEBRUARY 26, 1935

The consumer can tell very little about relative costs of cosmetics. Many items which seem to be cheaper are really much more expensive. A \$1 lipstick costs \$448.16 per pound, while a \$1.25 lipstick costs \$142.40 per pound. A \$1.75 astringent costs considerably less per pound than a \$1 and an 85-cent astringent. One 88-cent package of rouge costs \$41.12 per pound, while another 38-cent package costs \$20.32 per pound—less than half the price of the competitive item.

The CHAIRMAN. You are speaking only of the cost of the ingredients. Is there any other cost that goes into the finished product?

Mr. MASTERS. Many other costs—advertising, labor costs, manufacturing costs. The only point we can make about the disparity between cost and price is that a mark-up of, in some cases, 1,800 percent, doesn't seem necessary to cover what are known labor costs and manufacturing costs. That is one aspect of the problem.

Another aspect is that there are cosmetics on the market which don't have quite such sizable mark-ups. While it is true that, say, 7 out of 10 brands of cosmetics will have a mark-up of anywhere from two or three hundred percent on up, the other 3 out of 10—

The CHAIRMAN (interposing). You mean there is no justification whatever for the mark-up?

Mr. MASTERS. Profits.

The CHAIRMAN. Of course. I was excluding that. The fact that an effort is being made to carry on business on a national scale—would that have any effect, in your opinion?

Mr. MASTERS. Yes.

Here are two lipsticks, and it seems to me they tell the whole story of cosmetics as we get it from testing them. One is not included in this survey, one is. If you care to examine these—

The CHAIRMAN (interposing). I don't know anything about them.

Mr. MASTERS. Neither does the consumer. That is the significant point. The consumer goes into a store and buys these. They look alike; you can see that. They are both well made, the type of container is identical, its shade so far as anyone can see is the same. We have tested them both. We know neither contains impurities. We know that the ingredients in neither cost over 3 cents, and we know the container does not cost over a nickel.

The CHAIRMAN. Could they be made locally?

Mr. MASTERS. I don't understand.

The CHAIRMAN. Could they be made in every city in the country?

Mr. MASTERS. I doubt it, but they both have national distribution.

The CHAIRMAN. I understand that, but I am wondering whether lipstick itself, forgetting the brand and forgetting the quality, could be made in every city of the country commercially.

Mr. MASTERS. A city which provided manufacturing facilities for the making of any reasonable commodity would allow for the making of lipstick.

The CHAIRMAN. Every city doesn't provide manufacturing facilities. In other words, what I am trying to find out is whether there are not some particular reasons why a product of this kind is more readily manufactured for the national trade than it could be manufactured locally for local trade.

Mr. MASTERS. I don't think it is peculiarly true of products of this kind. Isn't that true also of automobiles and virtually any other consumers' goods involving mechanical manufacture that you can think of?

The CHAIRMAN. Automobiles, of course, lend themselves very clearly to centralized manufacture, and most industrial products lend themselves to centralized manufacture. As a matter of fact, industry has brought about concentration of population, so I am wondering whether this particular product is also one that can best be manu-

factured under a centralized economy and, if it can, whether that fact itself does not add a factor which explains to some degree, at least, this big mark-up.

Mr. MASTERS. Well, I think——

The CHAIRMAN (interposing). In other words, there are other factors than the mere cost of the ingredients.

Mr. MASTERS. That is true, but I haven't yet got to the distinction between these two that look so much and are so much alike.

Mr. MONTGOMERY. They both have national distribution?

Mr. MASTERS. They both have national distribution, they are both made in the area of New York, where most of this stuff is made; neither will hurt you and both will put what you want on your lips, but the one costs \$1.25 and the other costs a dime.

Mr. MONTGOMERY. What are those prices again?

Mr. MASTERS. \$1.25 for this one and 10 cents for this one. We can't answer that. We can test them and find out what is in them, and we can look around and check up, investigate, and find out what the container would cost. We can read the trade papers and find out what the advertising appropriations are, and we can estimate manufacturing costs and we can figure what profit should be. We can't, in a million years, justify \$1.25 for one of these whereas 10 cents is fair. We don't believe that the manufacturer of the 10-cent brand is going broke.

Mr. HENDERSON. Maybe we can get at that in a little bit different way. In the manufacture of cosmetics is there any huge investment for a plant and equipment necessary, or is it possible to make them in almost any laboratory?

Mr. MASTERS. That is true.

Mr. HENDERSON. The problem, after once a mix has been made, is merely of getting them into the container.

Mr. MASTERS. That is all.

Mr. HENDERSON. So it isn't an important industrial one. Isn't it true that a number of the manufacturers of cosmetics really started as what you call a one-horse shop, sometimes in a back room?

Mr. MASTERS. Yes; and on a number of occasions those that started that way ran into the Food and Drug Administration or the F. T. C. and would close up and start up elsewhere. It was that easy.

The CHAIRMAN. Then your answer to my question would be not the one you gave, but that lipstick could be manufactured locally?

Mr. MASTERS. I was giving an answer based on the fact of how they are manufactured.

The CHAIRMAN. Of course, that isn't what I asked you.

Mr. MASTERS. What I said in reply to your question was that any city that would provide manufacturing facilities would allow the manufacture of lipstick.

The CHAIRMAN. Then you compared it to the automobile industry.

Mr. MASTERS. Because it is centralized.

The CHAIRMAN. Now, I understand the fact to be that these can be manufactured in any little laboratory.

Mr. MASTERS. Yes, that is true; but it just happens that most of the little laboratories are located all in one area, along with the big ones, too.

The CHAIRMAN. You are giving a different answer to me from that which you gave to Mr. Henderson.

Mr. MASTERS. One is true in regard to the fact and the other is true in regard to what it could be.

Mr. HENDERSON. Could we put it this way: A laboratory sufficiently complete to make lipstick would not require much investment and could be located in almost any city of reasonable size.

Mr. MASTERS. So far as the contents go; yes. That is generally true, of course. The only difficulty of manufacture in the case of lipstick would be the containers, and there is the question of the container makers, the paper-box makers for powder, and so forth.

Mr. HENDERSON. They are not manufactured by the cosmetics man. They are bought from a container manufacturer.

Mr. MASTERS. Yes; and if you are close to the source of supply, it is cheap; but \$1.25 for lipstick will allow considerable for freight.

Mr. MONTGOMERY. I think that is all on lipstick. I take it the point you wanted to make is that the consumer buying on the basis of price probably isn't getting any more by paying \$1.25 than by paying a dime.

Mr. MASTERS. I think it is only fair to say that cosmetics are outstanding in this regard. Surveys made within the trade itself, in the advertising business, have shown that when a cosmetic is introduced, when it first comes out, the advertising expenditure is often as high as 100 percent of sales, to get it established, because that is one vital thing to a cosmetic. None of them, of course, will do what most of them claim they will do. The lipsticks won't nourish the skin, as some of them claim to do, or other things of that sort, so it isn't necessary to get any real substance into their form of advertising. For their brand name they will put a tremendous percentage into advertising and, as I said before, I don't think there is much necessity to go into cosmetics in detail, because I think these two here carry the whole story.

Mr. MONTGOMERY. Now, Mr. Masters, if you will explain your shoe exhibit to us, we will let you off. Your voice is quite a trial for you. Will you tell us what this shows? On this same question of whether or not buying by price is a guide to quality.

Mr. MASTERS. These shoes in various states of disrepair are samples of two different brands that we tested. The item on top is the shoe before testing, and all of this is the other shoe, in the process of testing. The significance of the display is that they both cost \$5.50, as I recall, or one was \$5.50 and the other \$5.55.

Now, on all counts, starting with the heel, which in this one had a wood filler and in this one was leather, continuing to the sole, which in this one broke much more quickly under the abrasion machine to test the wear of the sole, on down through the other parts of the shoe, the one selling at \$5.50 was an inferior shoe. The one selling at \$5.55 was simply a much better buy. Here was a case where price was a guide to quality almost in reverse; the price was the same; you had the right to expect closely comparable results, but they were not closely comparable.

The CHAIRMAN. Were these shoes put out by the same manufacturers?

Mr. MASTERS. No; two different manufacturers.

The CHAIRMAN. And are you giving the retail price?

Mr. MASTERS. Yes; that is the price at which we bought them in the stores.

Mr. MONTGOMERY. Do you know what brands those were, without naming them?

Mr. MASTERS. Yes.

Mr. MONTGOMERY. They are both sold, aren't they, under a fixed retail price controlled by the manufacturer?

Mr. MASTERS. One is, I believe, and the other is not. I would like to point out—

The CHAIRMAN (interposing). Which was not controlled?

Mr. MASTERS. This one.

The CHAIRMAN. The cheaper one?

Mr. MASTERS. Yes. A similar exhibit could be got up on tires and might be more graphic than this one. They make the same point. Tires are bought for virtually any price, depending on the current state of tire wars in the industry, but their list price is pretty standard. It is \$13 for a standard-sized tire.

The CHAIRMAN. Before you go to the tires, tell us about the inner soles. What is the difference between the inner soles? You described the heels and soles.

Mr. MASTERS. This one, unfortunately, has broken off in transit; we put these on a tensile strength testing machine to pull them apart to see how many pounds are required to break them. This broke at 284 pounds.

Mr. MASTERS. Yes; and the other one broke at 630 pounds. On this particular count the \$5.55 shoe was almost three times as strong.

The CHAIRMAN. And was the inner sole made of leather in each instance?

Mr. MASTERS. Yes.

The CHAIRMAN. What about the uppers?

Mr. MASTERS. The same there.

Mr. MONTGOMERY. Give us the measures on the soles.

Mr. MASTERS. On the soles themselves, the figures indicate the number of strokes necessary to wear through the soles. On the \$5.50 shoe, 50,900 strokes were necessary; on the \$5.55 shoe, 55,900 were necessary.

Mr. MONTGOMERY. About 10 percent more?

Mr. MASTERS. About 10 percent more.

The CHAIRMAN. I didn't quite get that. The cheaper shoe had how many strokes?

Mr. MASTERS. Fifty thousand nine hundred.

The CHAIRMAN. And the more expensive shoe had how many?

Mr. MASTERS. Fifty-five thousand nine hundred. The sole on the cheaper shoe was 0.225 inch thick, and the sole on the shoe that cost 5 cents more was 0.325 inch thick.

The CHAIRMAN. Is the stroke of which you speak so regulated as to simulate the effect of a step?

Mr. MASTERS. Vaguely, but that isn't an important consideration in the way the machine is set up. There are various types of machines. This one, I believe, had four spokes coming out with abrasive ends that went around in a circle on the sole.

The CHAIRMAN. Then you wouldn't say that this cheaper shoe would wear out in 50,000 steps?

Mr. MASTERS. No; we couldn't say that. On all of the counts, on every single one which went into the basis of ratings of them, the shoe that cost a little less, but practically the same, was definitely inferior.

If you had two people going in to buy those two brands of shoes, paying the same price, one would get a good pair, and one would get a bad.

The point I want to make on tires was that the same thing is true throughout. As a comparison, that extends to all points of tires, but the saving is a more graphic exhibit because the saving on 4 tires costing \$13, as compared with 4 others costing \$13, could be as much as 100 percent in the driving life of the tire. In that case, the person who goes in to buy a set of 4 tires, which, at \$13 apiece, would come to \$52, may get 13,000 miles on the set. Another person going in and paying exactly the same for a brand just as reputable in name, but no more, will get, say, 33,000 miles. One will pay at the rate of about 3.6 cents per hundred miles of driving; the other will pay at the rate of about 9 cents.

Mr. MONTGOMERY. You mean under the same conditions of use in both cases?

Mr. MASTERS. Under identical conditions. Of course, two different drivers wouldn't supply identical conditions, but under test-control methods that is true.

Mr. MONTGOMERY. Are there any questions from the committee?

Mr. HENDERSON. Is this the finish of this?

Mr. MONTGOMERY. Yes.

Mr. HENDERSON. I wanted to ask a question about a rumor that I have heard from time to time. Is it true that the leading newspapers will not take the advertising of Consumers' Union?

Mr. MASTERS. That is true of a good many of them; yes; also magazines; also radio stations.

Mr. HENDERSON. What is the explanation that is given in a case like that?

Mr. MASTERS. Our own explanation?

Mr. HENDERSON. No; I mean the explanation that is given.

Mr. MASTERS. That the newspapers give?

Mr. HENDERSON. Yes.

Mr. MASTERS. Some of them say pressure from advertisers does not allow them to accept our advertising; some of them say we deal in controversial matters, and that their advertising policy does not permit the discussion of controversial matters in their advertising columns; others say that they aren't sure of our integrity or competence and would have to have us investigated and given a good rating before they will accept us. In the case of one newspaper that made that statement, we suggested that we proceed with the investigation and they offered the National Better Business Bureau as an investigating agency. We refused, we turned that down, because the National Better Business Bureau has on its board of directors a number of advertising agents, retail store executives, advertisers, people, in other words, who are identified with products some of which we have rated as not acceptable. We suggested to the papers that they appoint a person, we appoint a person, and the two appoint another to perform the investigation, meantime telling them they could all come down and investigate us themselves if they wanted to, but that offer has never been taken up.

Mr. HENDERSON. That is the explanation they give you. Now, what is the explanation you give. Is it different from that?

Mr. MASTERS. The explanation we give is—well, it can be divided into two parts. In some instances of this refusal it is pressure from advertisers, specific, overt, and tangible. In other cases it is because the publisher finds himself more in agreement with the advertiser than with us and doesn't need to have pressure applied. That is, he thinks that way to begin with. After all, in one sense we can't blame the paper. If the paper is apt to lose advertising, and they say they are if they accept ours, to insist that they accept ours would be to ask them to work against their own economic interests. We do resent the fact that the publisher's economic interest can determine the policies of the paper to that extent.

Dr. LUBIN. Mr. Masters, do you know of any other instances where advertisers have been investigated to check upon the integrity of their products?

Mr. MASTERS. I can't think of any offhand, but I am pretty sure there would be some. Some of the papers do make definite attempts to keep out advertisers that they think are bad in any sense.

Mr. HENDERSON. I know that is true with certain lines of advertising in the New York Times, of course.

Mr. MASTERS. Yes.

Mr. HENDERSON. When I was at the Sage Foundation we were consulted almost constantly by advertisers offering financial opportunities and things like that.

Mr. MASTERS. On the other hand, the New York Times has led in other advertising which wouldn't receive that same bill of health.

Mr. HENDERSON. I was responding to Dr. Lubin's question.

Dr. LUBIN. I wonder if as a manufacturer of shoes I put out a product that sold at \$5, would any newspaper advertising department want to check up on the quality of my shoes or the integrity of the firm if I could pay for my advertising?

Mr. MASTERS. I think it would be highly unlikely.

Mr. MONTGOMERY. I am glad you brought up the question of inviting somebody to come down and investigate your investigating service. You are investigating products for consumers and giving them the results of your tests about which brands are good and which are not, and so on. There are many other kinds of service of that sort available to the consumer, seals of approval of all sorts, where one agency or another is purporting to do the same thing for consumers.

Mr. Agnew, of the American Standards Association, has brought the question out very well, where he said that consumers won't know whether they should rely on these seals of approval and these testing services like Consumers' Union and others, unless somebody is to certify that he is. In other words, we need there, too, a standard of the way goods are tested and investigated. I am very glad to hear that the Consumers' Union has already invited such an investigation. I dare say you would welcome the establishment of a standard for the performance of the kind of work you are doing.

Mr. MASTERS. We would be delighted with that.

The CHAIRMAN. Yours is a nonprofit organization, I understood you to say.

Mr. MASTERS. Yes.

The CHAIRMAN. Supported by what?

Mr. MASTERS. The fees of its members.

The CHAIRMAN. How many members?

Mr. MASTERS. About 80,000.

The CHAIRMAN. How was it organized?

Mr. MASTERS. It was organized 3 years ago, incorporated in New York State under the nonprofit membership incorporation laws.

The CHAIRMAN. What was the reason for its organization? How did it come about?

Mr. MASTERS. There was a strike at an agency performing similar service, then in existence. Those who went on strike, in answer to a considerable request from members of the then existing agency to set up an agency to do similar work, but that would be pro-labor, led to the formation of this.

The CHAIRMAN. What sort of an agency was that?

Mr. MASTERS. Pro-labor.

The CHAIRMAN. What sort of agency was it which went on strike?

Mr. MASTERS. The employees of the agency.

The CHAIRMAN. The same as Consumers' Union?

Mr. MASTERS. Yes.

The CHAIRMAN. And the employees of that agency went on strike?

Mr. MASTERS. That is right.

The CHAIRMAN. And they, the striking employees, formed this organization?

Mr. MASTERS. Yes.

The CHAIRMAN. And how did they get their members?

Mr. MASTERS. A good many of the members of the organization, the employees of which went on strike, formed together into a council (I think it totaled about 2,000 before Consumers' Union started) urging that certain of the employees of the other agency set up one which would be pro-labor in its outlook, and do testing, too.

The CHAIRMAN. How many employees went on strike?

Mr. MASTERS. Forty-four out of a total of about sixty-five.

The CHAIRMAN. How many of those 44 formed in the new organization?

Mr. MASTERS. When the new organization set up, business was not very extensive and 10 of them came in to work. Since then the staff has grown to 50, and I think at the present time about 20 of these are former employees of the other agency.

The CHAIRMAN. How did these organizing employees go about forming this new union?

Mr. MASTERS. How did they go about it?

The CHAIRMAN. How did they go about forming this new Consumers' Union, this new agency?

Mr. MASTERS. The details of incorporation are that end of it.

The CHAIRMAN. I don't mean that. You now have 80,000 members. How did you go about getting them in?

Mr. MASTERS. To get the members?

The CHAIRMAN. Yes.

Mr. MASTERS. We went about doing it by using direct mail, by telling people, by sending out speakers to consumer clubs, to trade-union meetings, by advertising. You see, when we first started we were not considered a threat because we were new, we were small, and we hadn't been heard of before. The papers took our advertising, which they don't do any more.

The CHAIRMAN. You must have had a little capital with which to do this.

Mr. MASTERS. Very little, which we got from members. You see, before we actually started publication the membership made up almost entirely of members of the other organization that were sympathetic to the strikers—I think numbered about 2,000. On the basis of their fees, that would come to around \$5,000.

The CHAIRMAN. This staff, of course, is a paid staff?

Mr. MASTERS. Yes; it is.

The CHAIRMAN. Just as the staff of the other agency was a paid staff?

Mr. MASTERS. That is right.

Mr. MONTGOMERY. Would you mind telling some of the salaries on that staff? I think it might be interesting. I don't know what they are; I understand they are not very high.

Mr. MASTERS. Well, the salary was level all around for the director of the organization and everyone else. When they started the organization it was \$10 a week, and it remained there for several weeks, and then was jumped way up to \$12.50. After a time it moved up to \$14.50, and then at \$16 differentials were first introduced. At the present time there is a minimum, under our closed-shop contract, of \$20, which is the lowest we pay, and \$60 is the top salary.

The CHAIRMAN. Are there any other questions?

Mr. MONTGOMERY. No, sir.

Dr. LUBIN. Mr. Masters, has your organization been following with any degree of interest the attempts to modify the Pure Food and Drug Act?

Mr. MASTERS. Yes, indeed.

Dr. LUBIN. Have you received any aid, or have you found much interest in getting anything done to get the public conscious of what the act is attempting to do through the press?

Mr. MASTERS. Quite the contrary. The press distinguished itself in the 5-year fight for food and drug legislation (1) by saying virtually nothing about it from the consumer point of view, or what we conceive to be the consumer point of view, (2) by doing fairly yeoman work in support of the advertisers' point of view. Again, we think it is entirely understandable, but we think it should be known.

Dr. LUBIN. Was there any medium at all other than organizations such as yours to notify the consumer of the importance of the law to their welfare?

Mr. MASTERS. There were organizations which later turned out to have been set up by advertising groups which had "consumer" in the title and were known generally by rather long names to indicate that they were for disseminating sound and constructive information on food and drug legislation. But aside from those, which were simply not consumer organizations, and aside from more or less spontaneous organizations set up in some cases by consumer groups, and by trade unions, I can't think of any in particular now.

Mr. MONTGOMERY. I think that there should be introduced in the record there honorable mention for two large newspapers that did take a very different stand in that respect and did give very honest and

full reporting of the food and drug fight, namely, the St. Louis Post-Dispatch and William Allen White's Emporia Gazette. They were very outstanding as an exception to this general treatment of the question in the metropolitan press.

The CHAIRMAN. Are there any other questions?

(The witness, Mr. Masters, was excused.)

The CHAIRMAN. The committee has received from Seton Porter, president of the National Distillers Products Corporation, a list of all the subsidiaries of National Distillers Products Corporation as of 1924, 1933, and 1938, together with a statement of the brand names controlled by National Distillers Products Corporation as of those dates. This material was requested by the committee at hearings on March 14, 1939. It may be printed in the record.

(The letter referred to was marked "Exhibit No. 516" and is included in the appendix to Hearings, Part VI, p. 2745.)

The CHAIRMAN. The hearings are finished for this afternoon, until 10 o'clock tomorrow morning. The committee will go into executive session.

(Whereupon, at 4:15 p. m., a recess was taken until Thursday, May 11, 1939, at 10 a. m.)

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

THURSDAY, MAY 11, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:45 a. m., pursuant to adjournment on Wednesday, May 10, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senator O'Mahoney, chairman; Representative Williams; Messrs. Lubin, Hinrichs, O'Connell, Henderson, and Lowell J. Chawner, Chief of Division of Economic Research, Bureau of Foreign and Domestic Commerce, alternate for Mr. Patterson.

Present also: Messrs. D. E. Montgomery, Consumers Counsel, Agricultural Adjustment Administration; Willis J. Ballinger, Federal Trade Commission; Anderson Tackett, Federal Trade Commission; Wilford L. White, Department of Commerce; Milton Katz and James C. Wilson, Department of Justice; and Thomas Blaisdell, Securities and Exchange Commission.

The CHAIRMAN. The committee will please come to order. Mr. Montgomery, are you ready to proceed?

Mr. MONTGOMERY. Mr. Chairman, I would like first this morning to put on the record an apology. Yesterday I stated that there were two newspapers that deserved honorable mention with reference to the food and drug news coverage that had been referred to.¹ I think I was wrong; I should have included the Christian Science Monitor.

The CHAIRMAN. I am sure there are a lot of newspapers all through the country which deserve a little accolade in that respect.

Mr. MONTGOMERY. Mr. Chairman, yesterday we were showing through these witnesses the general picture of consumer confusion which results from the conditions under which they make their purchases. Today we want to go into new fields and get away from that. Before we do, our first witness will give you one more picture of that confusing situation which summarizes the whole story pretty well in one concrete case. I would like to call Dr. Ayres.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in these proceedings will be the truth, the whole truth, and nothing but the truth, so help you God?

Dr. AYRES. I do.

TESTIMONY OF DR. RUTH AYRES, ECONOMIST, NEW YORK, N. Y.

Mr. MONTGOMERY. State your name, please.

Dr. AYRES. Ruth W. Ayres.

Mr. MONTGOMERY. And your address?

¹ Supra, p. 3342.

Dr. AYRES. 410 Riverside Drive, New York City.

Mr. MONTGOMERY. What are your occupations or experiences in this field, Dr. Ayres?

Dr. AYRES. I am an economist, and happen to have done work in the consumer field for several different companies, and I am in volunteer work with several organizations working on consumer problems.

CONFUSION OF BRANDS, SIZES, AND PRICES

Mr. MONTGOMERY. Your first point that you want to discuss is this exhibit of cans of tomato juice. Will you explain to the committee what these are and then go on and tell your story about them?

Dr. AYRES. We have here tomato juice which was purchased in one store here in Washington in one day, and I just want to show a problem, if each of you will think in terms of how you would buy as you realized the choices which were before you. I go into the store and ask about tomato juice and I want to get the relative prices in relation to the best quality, or if I want to get a second quality tomato juice I want also to be able to know that.

So I go into a store and ask what they have for tomato juice and I find that there are 21 different containers of tomato juice representing 11 different brands. These containers sell at 15 different prices. There are 17 different sizes when measured by size of container; there are 15 different sizes if measured by volume; there are 16 different rates of price if you relate it to 10 ounces of tomato juice.

Mr. MONTGOMERY. You mean there are different costs per unit of contents?

Dr. AYRES. Yes; different costs per unit of content. So my job is to come in in the morning and buy tomato juice for the rest of the week for my family, and in order to do that successfully I have to build a statistical table giving me the range in price per unit of all of these 21 different containers, and then following that I have to know which one represents good quality and which one represents bad quality.

Mr. MONTGOMERY. How many different grades are there? I don't think you mentioned that.

Dr. AYRES. There is no grading on this; in other words, there is no way except to try the 11 brands before I can tell whether by brand there is any difference, and then whether there is any difference in relationship to the brands of a single grade. By experience I have discovered that grades vary within a single brand, so that the opportunity for me to buy this one item of tomato juice intelligently just doesn't exist unless I spend the day on this one problem.

I think it really represents the total of the confusion which the housewife meets in buying really hundreds of different commodities. We simply chose this because it is one which is so commonly used. In other words, there is no way because of the multiplicity of can sizes that I can judge of the relative costs per unit of the article that I am going to buy. Then that is added to the fact that I have no way of telling the relative quality of the material in the cans without trying out all of the brands, and if I went to two or three more stores in the same block the number of brands would jump 35 or 50 percent, probably, because I know a lot of the brands I have tried

out aren't here. What can the housewife do with the time element involved?

Given all knowledge, given the problem that the material is here if we want it, how in terms of common sense can the housewife use it?

The CHAIRMAN. How many of these containers of different sizes are turned out by the same canner or the same producer?

Dr. AYRES. Four is the largest in this group. There are only four sizes to one brand and obviously there are 11 brands, and that multiplies it. There is a chart up here.

Mr. MONTGOMERY. May I introduce this chart in the record at this point?

The CHAIRMAN. The chart may be received. Please identify the chart, Dr. Ayres, by citing the title.

Dr. AYRES. This is tomato juice, sizes and prices, in one Washington store, purchased in 1 day.

(The chart referred to was marked "Exhibit No. 517" and appears on p. 3348.)

Dr. AYRES. This gives the brand, the size of the can, the fluid volume, the price and the price per ounce, which varies from $3\frac{1}{3}$ cents to $7\frac{1}{2}$ cents in units of 10 ounces, so that for 10 ounces of tomato juice you could pay as low as $3\frac{1}{3}$ cents or as high as $7\frac{1}{2}$ cents.

The CHAIRMAN. Not in the same brand.

Dr. AYRES. Not in the same brand.

One of the other confusions which we meet is very well illustrated because the cheapest buy is in the largest-size can, the most expensive is in the smallest-size can; but when we come to the two intermediate-size cans the thing is simply reversed, and it is cheaper to buy in the second quality than in the third.

The CHAIRMAN. Do you draw the inference that there is no reason or logic in the manner in which the producers prepare these?

Dr. AYRES. Well, I am sure there is logic for them, but the problem is that as I buy I can't find the logic and I don't know what form of logic to follow unless I go to the store and ask for the price of every one of the items that they carry. In other words, I can't be sure that the larger container is the better buy. Even if I take two prices, say I take this brand, ask the price of the cheapest which is a very large can, ask the price of the most expensive which is the very small can, and then say I will take an intermediate can, I can't know that I am getting a relatively better price. In other words, that is just another confusion showing another problem that I have to go through before I have to buy intelligently.

The CHAIRMAN. Do you have any reason to believe that the form and size of the containers are manipulated for the purpose of increasing profits?

Dr. AYRES. I presume it is what the market will take. I think it must be based on that; that is, it can't be based on economies in sale because if it were there would be a definite relationship between size and price. So it must be what the market will take, and for some reason or other this particular producer believes, or in this particular case the store may believe, that the best way to sell this is on that basis.

The CHAIRMAN. Now we had some testimony yesterday, illustrated by cans also, which tended to show that a small-size can was put out

for the purpose of enabling the seller to obtain at least as large a price at sales as would be obtained at the ordinary transaction, if I make myself clear.

Dr. AYRES. Yes, yes.

The CHAIRMAN. Do you have any evidence of that?

Dr. AYRES. Among the consumers with whom I have worked I have had several of them tell me that same thing, though personally as a buyer I never happened to notice that I have run into it. I never

EXHIBIT No. 517

- TOMATO JUICE -
SIZES AND PRICES
IN ONE WASHINGTON STORE

| | NAME | SIZE | FLUID VOLUME | PRICE | PRICE PER |
|----|----------------------|-----------|--------------|----------|-----------|
| | | | | (CENTS) | 10 OZ. |
| 1 | PHILLIPS | 211 x 315 | 10½ oz. | 2 FOR 09 | 4.4 |
| 2 | HEINZ | 211 x 411 | 12 oz. | 07 | 5.8 |
| 3 | DEL MONTE | 211 x 413 | 12 oz. | 07 | 5.8 |
| 4 | BEECHNUT | 211 x 414 | 12½ oz. | 3 FOR 25 | 6.7 |
| 5 | CAMPBELL'S | 300 x 407 | 14 oz. | 07 | 5.0 |
| 6 | CROSSE AND BLACKWELL | 300 x 407 | 14 oz. | 2 FOR 17 | 6.1 |
| 7 | LIBBY | 300 x 408 | 14 oz. | 3 FOR 19 | 4.5 |
| 8 | COLLEGE INN | BOTTLE | 1 PT. | 12 | 7.5 |
| 9 | CAMPBELL'S | 303 x 509 | 1 PT. 4 oz. | 2 FOR 17 | 4.2 |
| 10 | AUNT NELLIE | 307 x 512 | 1 PT. 8 oz. | 10 | 4.2 |
| 11 | STOKES - GRADE A | 307 x 512 | 1 PT. 8 oz. | 08 | 3.3 |
| 12 | COLLEGE INN | BOTTLE | 1 PT. 10 oz. | 17 | 6.5 |
| 13 | CROSSE AND BLACKWELL | BOTTLE | 1 QT. | 21 | 6.6 |
| 14 | DEL MONTE | 404 x 615 | 1 QT. 14 oz. | 21 | 4.6 |
| 15 | LIBBY | 404 x 708 | 1 QT. 18 oz. | 19 | 3.8 |
| 16 | BEECHNUT | 502 x 505 | 1 QT. 18 oz. | 25 | 5.0 |
| 17 | CAMPBELL'S | 502 x 505 | 1 QT. 18 oz. | 22 | 4.4 |
| 18 | CROSSE AND BLACKWELL | 502 x 510 | 1 QT. 20 oz. | 25 | 4.8 |
| 19 | RITTER | BOTTLE | 2 QTS. | 27 | 4.2 |
| 20 | LIBBY | 603 x 700 | 3 QTS. | 39 | 4.1 |
| 21 | CAMPBELL'S | 603 x 700 | 3 QTS. 3 oz. | 39 | 3.9 |

PURCHASED AT GIANT MARKET, 15TH & H ST. N. E., WASHINGTON, D. C.

In one store on one day in Washington tomato juice was purchased in 21 different packages, which included 11 different brands, 17 different sizes, 15 different net weights, and 15 different prices.

In no two packages was the combination of size, net weight, and price identical.

Sizes varied by as little as ⅛ inch; net weight varied by as little as ½ ounce.

Elaborate calculations must be made to determine which product costs less per ounce, and by how much. For example, what is the difference in cost per ounce of 10¼ ounces at 2 for 9 cents and 12½ ounces at 3 for 25 cents?

Item 14 apparently costs 2 cents more than item 15. Actually it costs 4 cents more, when allowance is made for difference in net weight.

noticed that I have because I don't compare every single can I buy. I buy either by the case or in a hurry and don't look. When I buy by the case I try to buy very carefully, which I do with most of my marketing, and then when I come to the individual cans and it is just because I am in a hurry, and a can of this medium size and off I go, so I can't say it's ever happened to me, although I have many friends—

The CHAIRMAN (interposing). It would be an important thing to know from the point of view of the consumer whether or not substitutions of smaller sizes were made at sales in order to defeat the purpose of the sale.

Dr. AYRES. Well, now there is no question but that is done in other off sizes of all kinds. I don't think it applies to this type of can here, because there are so many that, unless there is a particular substitution in a sale of one can for another where the consumer is in the habit of buying a certain kind. In terms of this kind of an exhibit there is no standard, and therefore I can't go in and say I want a quart or a pint or a cup and expect that that is the usual basis upon which to buy because there isn't any usual basis, but when we come to other types of articles, and I have some very interesting material on that and I think we might skip and come right on. May I have the exhibit on tea and also the chart for dried vegetables?

Mr. MONTGOMERY. Do you want to introduce this chart into the record?

Dr. AYRES. Yes, I do. I think it is the one. It is on off-sized packages.

Mr. MONTGOMERY. Let us get this clear. There is a point of confusion with respect to this. Now you are going to talk about what?

Dr. AYRES. This is a different question. This is really what I believe is deception and it is an entirely different nature from this which I don't think most of it is intended as deception except in these particular cases.

Mr. MONTGOMERY. Excuse me. For the purpose of the record, this is the chart that is being introduced at this point.

(The chart referred to was marked "Exhibit No. 518" and appears on p. 3350.)

Dr. AYRES. Now here we have a series of commodities which come in boxes. Green peas, pea beans, red kidney beans, lentils, and so on, and we find that there is a standard size, 16 ounces for many of them, and that a single—these here represent the distributors [indicating]—and that a single distributor will put of these things five or six items all in a standard size and then he will have one item which is off size and short an ounce or half an ounce or an ounce and a half, and now it is perfectly obvious that when we get the habit of buying in boxes that are very nearly alike and almost all of them on the market represent exactly the same content, when we come to one that is different, there is deception there.

Take, for example, this tea which I bought yesterday after the committee meeting adjourned. I was told that this was happening here and I went out to see what I could buy. Here is a popular brand of tea which is marked in very large size on the front 3½ ounces net weight. Well, none of us ever buy tea except by pounds and quarter pounds and half pounds. I mean, you wouldn't buy eggs and go in

and ask for 10 eggs; you ask for a dozen or a half dozen. You wouldn't ask for a third of a dozen. I mean there are certain things by common practice which are understood to be the way in which buying is done, and that is the case of tea; you buy in half pounds or quarter pounds.

So I went in and asked for this tea by brand name and said I would like a quarter pound, and this is what I was given in three different cases.

Mr. MONTGOMERY. Did the retailer say he was giving you a quarter pound, or did he say he was giving you $3\frac{1}{2}$ ounces?

Dr. AYRES. Well, I had a series of different experiences. I went in and simply asked for the brand name and asked for a quarter pound, and in one instance the retailer told me, "This is a 19-cent package."

EXHIBIT No. 518

DRIED VEGETABLES

VARIATION IN LABELED WEIGHTS OF COMPARATIVE PACKAGES

| COMMODITY | NET CONTENTS IN OUNCES AS PUT UP BY DISTRIBUTOR | | | | | |
|-------------------|---|-----------|----|----|----|----|
| | A | B | C | D | E | F |
| GREEN SPLIT PEAS | 15 | 16 | 16 | 16 | 16 | 16 |
| PEA BEANS | 14½ | 14* 16 | 16 | 16 | 16 | 16 |
| RED KIDNEY BEANS | 14½ | 13 | 16 | 16 | 16 | 16 |
| LENTILS | 16 | 16 | 16 | 16 | 16 | 16 |
| BARLEY | 14½ | 16 | 16 | 16 | 16 | 16 |
| MARROW BEANS | 14½ | 13 | 16 | 16 | 15 | 16 |
| FARINA | 13 | ** | 16 | 14 | 14 | 14 |
| YELLOW SPLIT PEAS | 16 | 16 | 16 | 16 | 16 | 16 |
| LIMA BEANS | 14 | 13 | ** | 16 | 14 | 16 |

* TWO DIFFERENT WEIGHTS - IDENTICAL PACKAGES.

** DOES NOT PACK THIS COMMODITY IN A COMPARATIVE PACKAGE.

Source: Address of Hon. Alex. Pisciotto, Director of Bureau of Weights and Measures, City of New York, at the annual conference of the New Jersey Weights and Measures Association, September 9, 1938.

Distributor C packs uniformly in pound packages.

Distributors D and F put up only Farina in off-pound packages.

Distributors E has 3 off-pound packages; B has 4; while A packs only 2 of the 9 items in full-pound packages.

In another instance the retailer simply said, "Here it is," and in another instance I was told, "Well, now, this is not actually a quarter pound, but it always sells for a quarter pound," and in another instance I was urged that there was no difference. But these particular packages were sold to me as quarter pounds.

Mr. MONTGOMERY. Let me get the record clear. How many purchases of that brand of tea did you make?

Dr. AYRES. I made three—two in quarter pounds and one which was supposed to be a half pound and was 7 ounces.

Mr. MONTGOMERY. And I understand in none of those cases did the retailer call your attention to the fact that it was an off size?

Dr. AYRES. In none of those instances.

Mr. MONTGOMERY. Then, I understand, you made two other requests for it, but the retailer in those two cases told you it was not the size you were asking for.

Dr. AYRES. That is correct.

Mr. MONTGOMERY. And you have there?

Dr. AYRES. We get here another brand of tea which sold for the same price, and it happened to come in this size package, which shows that in terms of size of the package there is no indication to me that this is smaller than some other tea. There is a wide variety of sizes in the way tea is sold, but, in terms of the standard by which we buy, here, I believe, is something which leads without any question to definite deception.

Mr. MONTGOMERY. What are the weights of those two packages you are holding in your hand?

Dr. AYRES. This is 4 ounces and this is $3\frac{1}{2}$ ounces. They are so labeled, but when I went in and asked for a quarter of a pound of tea by this brand name this is what he gave me. A friend told me I could do that in Washington; I didn't believe it, and I thought this morning it would be very interesting to spend a short time here in Washington to see what I could develop.

The CHAIRMAN. That was the act of the retailer?

Dr. AYRES. But the consumer's problem is this—that these off-standard sizes make that thing possible. In other words, the fact that this happens is the thing which is important to the consumer.

The CHAIRMAN. Not the motive which causes it to happen.

Dr. AYRES. There might be all kinds of motives.

The CHAIRMAN. The important thing is the fact and not the motive.

Dr. AYRES. The important thing to the consumer is the fact, in trying to find out where we stand and why the problem exists probably includes the motive.

The CHAIRMAN. Your point of view is that there ought to be a standard size for all such containers, or standard sizes?

Dr. AYRES. It would be a great help, and this is just one instance. We could go into hundreds of this kind of thing if we wanted. I have in the room two or three other exhibits showing the same problem in a slightly different way, if the committee wants to go into that. There is this in illustration of the problem. There are slack containers, slack fills, deceptive bottoms, and a series of ways of selling goods, some of them which are perfectly obviously intended for deception, some of them on which the benefit of doubt may be given to the distributor or producers, but all having the same effect so far as the consumer is concerned, that it happens that the consumer thinks in the ordinary course of purchase that one thing is happening, and actually another is.

Mr. MONTGOMERY. Before you leave this subject of general confusion, have you anything more you want to say on that question?

Dr. AYRES. I would simply like to summarize the fact that when you put all of these confusions together, while in many instances

it is theoretically possible for the housewife to determine many of the questions of buying which it is necessary to determine if one is to be a good buyer, the chance of any individual being able to do it within the time allowed is practically—it simply rules it out, because after all, we have to buy almost all of the commodities with which we make a home, and that means that the problem of buying is an ever mounting one as our exchange society becomes more completely an exchange society, so we are involved over periods of time in trying to get this material. It seems to me that until we have some basis of judgment, some standards in terms of sizes, and some grades in terms of quality, we will never be able to do our job as intelligent buyers and housewives.

Mr. MONTGOMERY. Do you know whether manufacturers or any kind of business concern buying goods for its own use buy goods under the same confusing situation?

Dr. AYRES. No; I wouldn't say that none do, but the general practice in terms of buying at wholesale is based on an entirely different theory. We see first that all Government institutions buy by grade. We find that all large institutions such as hospitals and train companies and steamship companies buy by grade.

This is just limiting it for the moment to the food line. We find that canned goods are nearly all graded, only we don't know it. It has come through a process, because in the case of getting collateral it is impossible; in the course of the business transaction it is required that the warehouse receipt tell the grade of the canned goods on which the collateral is given, so it isn't a matter that it can't be done; it isn't a matter that it isn't being done; but it simply isn't being made available to the consumer, and all of the technical problems which we might think would arise in terms of standards have been solved—not that there can't be better standards, more carefully worded and better worked out, but the basic job has been done and it is being used commercially.

Mr. MONTGOMERY. You mean that the basic job has been done with respect to these canned goods.

Dr. AYRES. Yes. Not all canned goods go through the large warehouses. There are canned goods being sold which have never been graded. But the major proportion of the canned goods in the course of trade have already been graded and simply the consumer can't get that information.

The CHAIRMAN. Of course, unless a standard were fixed by public authority of some kind there would be no way of securing uniformity in the sizes of these various containers.

Dr. AYRES. Exactly, exactly.

The CHAIRMAN. Now, as a consumer, do you have anything to say upon the comparative benefit to the consumer of buying commodities of this kind, foods, in containers, and in the old-fashioned way in bulk?

Dr. AYRES. That raises a new problem. I don't have with me any statistical material on that problem, but I think I can say very briefly that the container always adds cost. That is a service charge to the consumer. When the consumer can only buy in container, obviously it is forced upon him, and he has to pay for a service whether he wants it or not. Also, the container opens the door to all of the

slack fill cases, because you can't see what is inside. You can't tell what you are buying. On the other hand the container in many instances helps to bring a more sanitary product, so that you can't put it in a clear-cut term and say there should be one or the other. But so far as the consumer is concerned, the right to choose whether a consumer buys that service is very important, and the second point, that if the consumer buys through that service, that the consumer have some way of knowing what it is she is buying within that package. That is also very important.

The CHAIRMAN. But it is more sanitary to distribute foods in containers than in bulk.

Dr. AYRES. It depends upon the product.

The CHAIRMAN. It also depends upon the retail store, does it not?

Dr. AYRES. Not entirely. I have bought stuff—oh, let's not go into that. I have bought stuff in boxes that I wouldn't put on my table, and because it was hidden I couldn't see as I bought it what was inside, and it was infinitely less sanitary than what I would have turned down in the case of a bulk product.

The CHAIRMAN. It is really a very important question from the point of view of the consumer whether a better standard is maintained in factory distribution, factory packing, than in bulk distribution and retail packing. I speak of retail packing as including just shoveling tea out of a big bin and pouring it into a paper bag, handling it with the hands of the retail salesmen and all of that. There is quite a question there, isn't there?

Dr. AYRES. Well, again there are a whole series of questions, as to whether the thing is to be cooked, and so on. In other words, there are hundreds of things that don't make the slightest difference, except esthetically, and since we don't know a lot of things the esthetics may not be better.

The CHAIRMAN. You have no definite conclusion to cite in that regard?

Dr. AYRES. I do not feel an expert in it, but I feel the consumer ought to be in a position to choose whether or not he or she should pay for an extra service, because if he or she can't afford that extra service it means paying out for something which is not of value in the budget allowed, and not having that same money to put on something which is of value.

Mr. MONTGOMERY. Have you observed, Dr. Ayres, from your experience, whether there is an increase in the extent to which goods are being sold only in the packaged form?

Dr. AYRES. In my neighborhood it is almost impossible in New York to get many commodities except in packaged form, and even at the stores where both are sold the retailer pushes the packaged form because the packaged form is the form in which the margins are larger in almost all cases.

The CHAIRMAN. How do you know that?

Dr. AYRES. Now, this is material which I didn't come with, I didn't come with my statistical material, and that is a matter of opinion. I have gone through a considerable amount of material which leads me to believe that, and I simply have to stand on my belief. This is off the subject I came prepared to talk on and I don't have with me material on that. On the other hand, it is perfectly obvious that

when we get into these varying sizes it is very much easier for the deception to be practiced in terms of these off sizes and so on which come about in packaged goods and can only come about with bad scales if you buy it on the other basis. Of course, you come into the question of adequate weights and measures laws if you are going to buy in bulk. So it isn't an easy path on either basis; there are problems.

The CHAIRMAN. You think there is as much danger of the distributor weighing his hand at the factory as at the counter.

Dr. AYRES. Yes.

The other question in regard to this is that the prices that I pay for packaged commodities are always higher in terms of the price per pound than for that same commodity in bulk, and usually higher by more than I would believe the container to be worth. Your container is worth anywhere from a cent or a cent and a half to 5 cents, usually, and if you get a price above that, obviously it is in problems of inefficiencies or larger margin of distribution.

Mr. MONTGOMERY. When you came back from your shopping tour of tea yesterday you had the package—I don't know whether you brought it with you or not—that was put up as tea balls. There you had additional packaging. Do you remember what the weight and price were on that?

Dr. AYRES. It was 0.64—in ounces it was 0.64, and I paid 10 cents.

Mr. MONTGOMERY. About two-thirds.

Dr. AYRES. About two-thirds of an ounce for 10 cents.

Mr. MONTGOMERY. That is $3\frac{1}{2}$ for what?

Dr. AYRES. This is $3\frac{1}{2}$ and the price would range from 18 to 20 cents. In other words, there was a tremendous difference simply due to the packaging, for the same brand.

Mr. CHAWNER. Have you determined the actual content of those packages, the actual weight of this marked " $3\frac{1}{2}$ ounces" and "7 ounces"?

Dr. AYRES. No; I haven't.

Mr. CHAWNER. The manufacturer, I take it, would be subject to prosecution if there were misrepresentation.

Dr. AYRES. I am not claiming that. The interesting thing about this particular exhibit is that it is in the very large size type, $3\frac{1}{2}$ -ounce net weight.

Mr. CHAWNER. Is there any likelihood in that case that the manufacturer may have printed a weight less than the actual content in order to be perfectly safe as far as avoidance of prosecution is concerned?

Dr. AYRES. All the other people who sell tea don't do it. I don't want to say all, but all of those that I happened to ask about—all of the others were put up in size near a quarter pound, in what was marked on the box a quarter pound, and within the likelihood of tolerances there is no reason why this should be a particular case here.

Mr. MONTGOMERY. If the manufacturer wants a tolerance to protect himself against that, he could have a tolerance above 4 ounces as well as a tolerance above $3\frac{1}{2}$.

Dr. AYRES. Perfectly well. In other words, "not less than" often comes on the package. Of course, the fact that tea is put up in a dried form means there is not very much likelihood of any great change of weight between the time it is packed and the time it is sold.

Mr. MONTGOMERY. You had some testimony you wanted to give on the subject of consumer credit. Will you introduce that?

CONSUMER CREDIT

Dr. AYRES. The subject of consumer credit is a large one and I want to give you some detailed material on one aspect of it, on which there has been a rather careful study. This material was collected by the Massachusetts Committee on Consumer Credit.

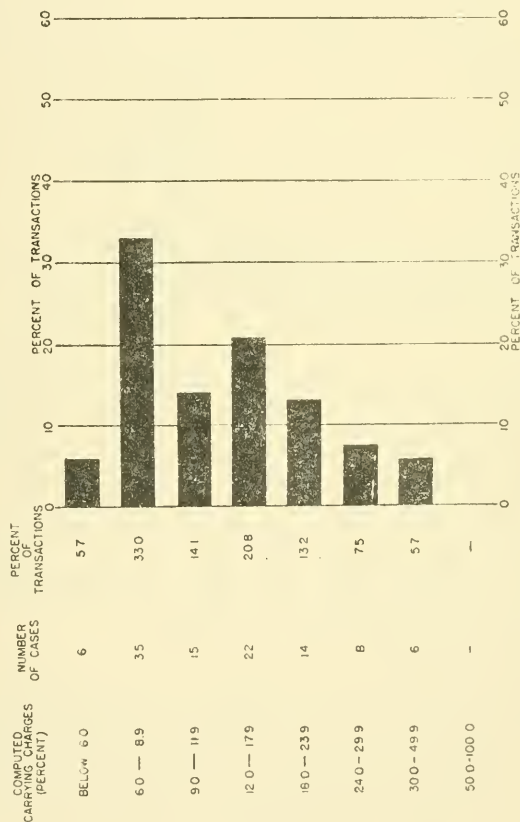
Mr. MONTGOMERY. We offer this chart for the record.

The CHAIRMAN. It may be received.

(The chart referred to was marked "Exhibit No. 519" and appears below.)

EXHIBIT No. 519

CARRYING CHARGES AS PERCENTAGES OF UNPAID BALANCES IN 106 INSTALLMENT
TRANSACTIONS IN WHICH QUOTED INTEREST RATES WERE 6 PERCENT
MASSACHUSETTS



BASED ON MASSACHUSETTS COMMITTEE ON CONSUMER CREDIT REPORT OF FEBRUARY 17, 1936

Quoted rates of interest in installment contracts give little indication of the actual cost of credit to consumers. In this chart the cost is shown as the percentage of the amount charged for credit to the amount borrowed. Despite a quoted rate of 6 percent, much higher rates were actually charged in a large proportion of the cases studied. In almost half of the cases the actual charge was at least twice the quoted rate.

Dr. AYRES. This material is taken from a report of the Massachusetts Committee on Consumer Credit, of February 17, 1936. It is one of the few wide field studies which have been made on consumer problems in terms of credit, and it is on various phases of installment buying. The point I want to bring out particularly is the question of interest rates charged on installment buying and the problem which faces the consumer in that field.

This study covered 21 Massachusetts towns and villages and covered 500 commodities and some 300 stores, so it was done on a very careful field-survey basis. There were 177 of the commodities which were advertised as being sold with carrying charges for time payment based on 5, 6 and 10 percent. We took the detailed material as put out by the Massachusetts committee and simply put together all of the cases of 6 percent and then figured what rate was actually being charged, and the first thing we did was to take the payments still to be made; that is, the amount due, and the charge, and figure the percentage relation of those, and we got some rather startling figures. Taking 6 percent first, because that was the one that came out most clearly in the largest number of cases, we find that in between 5 and 6 percent of the cases the actual rate was below the 6 percent that was advertised. However, when we come on up, about 60 percent was over 9 percent and about 26 percent was over 18 percent, and that is just in terms of the flat percentage relationship between the payments due and the carrying charge.

I would like to introduce at this time the chart for computed rates of interest based on a yearly figure.

The CHAIRMAN. It may be received.

(The chart referred to was marked "Exhibit No. 520" and appears on p. 3357.)

Dr. AYRES. This is the rate paid in terms of a year for the actual loan—

Mr. HENDERSON. The simple interest rate.

Dr. AYRES. The simple interest rate, but it is figured not on the total outstanding but on the fact that that total outstanding diminishes as the payments are made.

Mr. HENDERSON. The computation of the amount of money outstanding for any given period.

Dr. AYRES. Yes; so that is then averaged for the total period and the interest rate figured on that basis.

I want to compare these, if I may. We find that in only two of the cases was the interest rate below 9 percent.

Mr. MONTGOMERY. How many cases?

Dr. AYRES. One hundred and six.

Mr. MONTGOMERY. Two out of one hundred and six.

Dr. AYRES. Two out of one hundred and six were below 9 percent, and as we come on up we find that between 12 and 18 percent were 32 percent, and then we come to the final figure and we find that 7 of those cases were actually over 100 percent when figured on an interest basis.

There are similar stories for the material at 5 percent and at 10 percent.

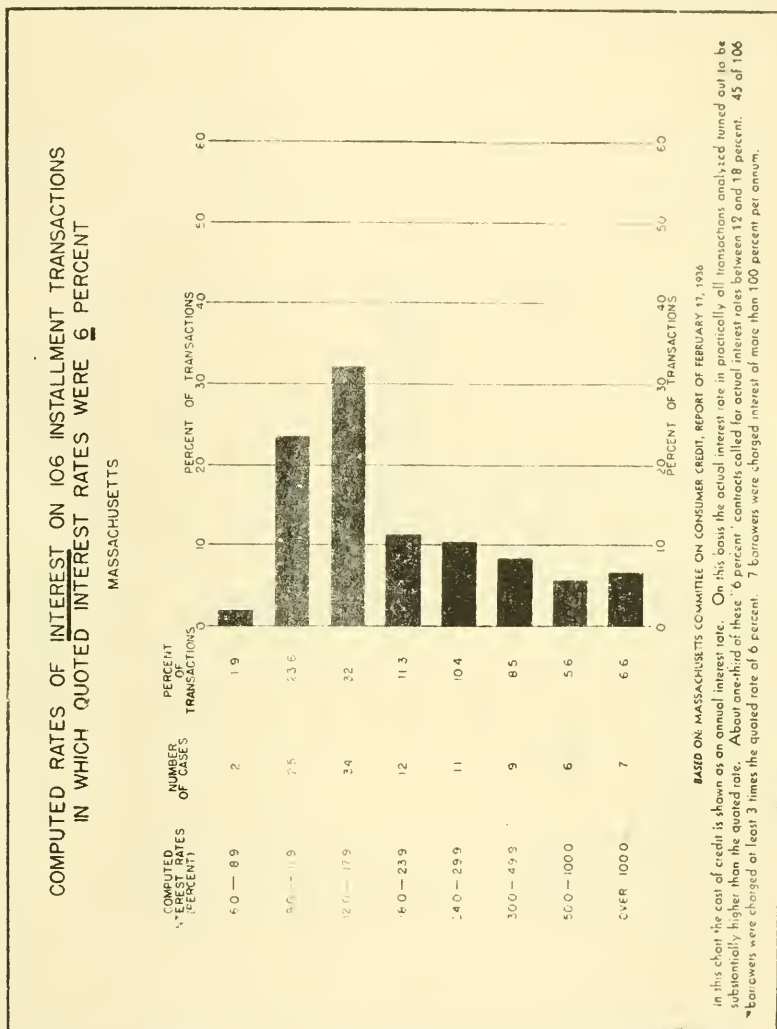
Mr. MONTGOMERY. I offer for the record this next chart.

The CHAIRMAN. It may be received.

(The chart referred to was marked "Exhibit No. 521" and appears on p. 3358.)

Dr. AYRES. We come back again to the percentage ratio first which is the simple relation of the amount outstanding and the charges, and we find that where it is advertised that 10 percent is charged, about 45 percent come below 12 percent; that is a pretty good figure in terms of the rest of what we have here.

EXHIBIT No. 520



The CHAIRMAN. Below what?

Dr. AYRES. Below 12. Not on an interest rate basis but on a percentage basis, and then we find that there are 32 percent between 12 and 18, and between 19 and 20 percent come between 18 and 24.

When we get the next chart, however, it looks very bad again.

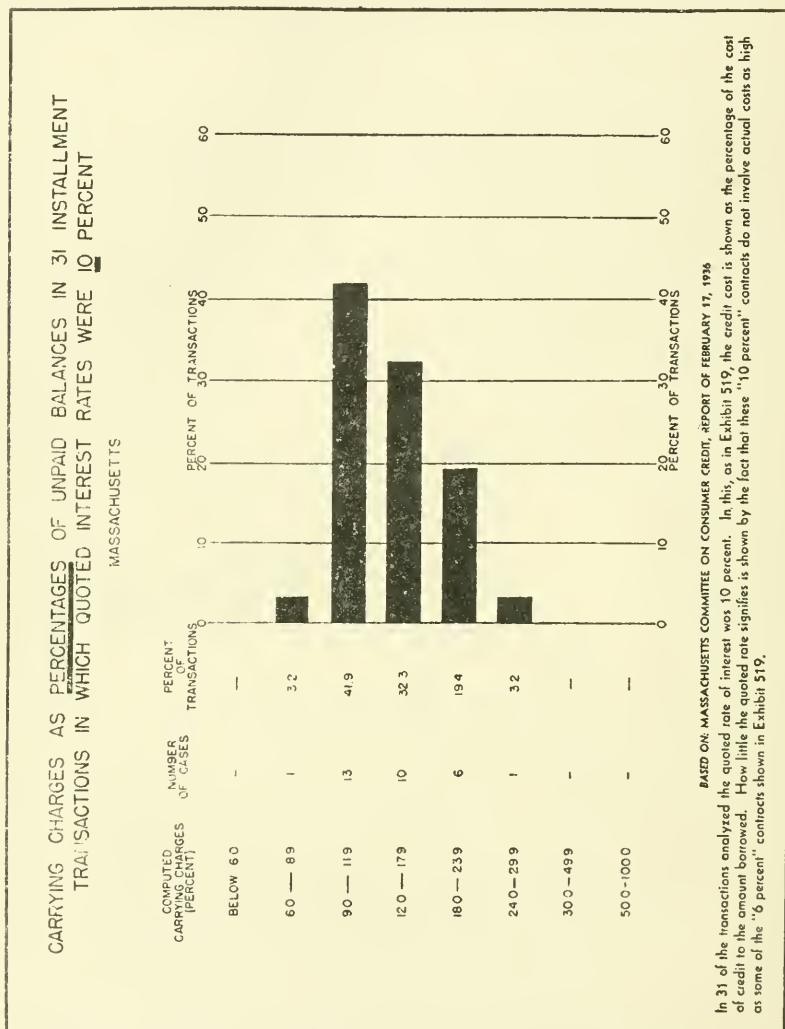
Mr. MONTGOMERY. We offer this chart for the record, at this point.

The CHAIRMAN. The chart may be received.

(The chart referred to was marked "Exhibit No. 522" and appears on p. 3359.)

Dr. Ayres. This chart shows the interest rate on these loans which were advertised at 10 percent, and we find that there were only 31 cases in the study which fell in this category, 10 percent, and only 1 of those was below 12 percent. A major line, as you see, comes upward as we get to the higher categories; 25 percent were paying between 18 and 24 percent; we skip again; 19 percent were paying be-

EXHIBIT No. 521



tween 30 and 50 percent, and 5 percent were paying between 50 and 100 percent, and here again two cases were paying actually more than 100 percent.

Mr. HENDERSON. Dr. Ayres, let me see if I get this correctly. In those two cases where the interest rate was over 100 percent, have you any information as to the amount of money that was involved in

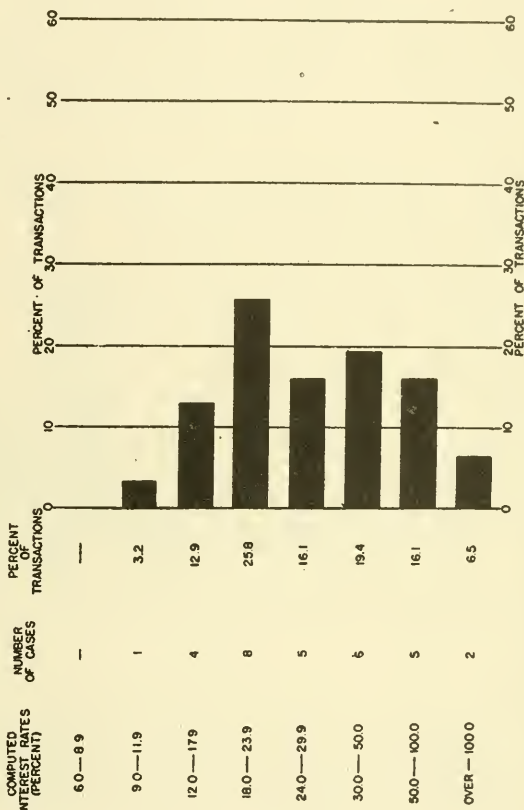
that particular transaction? I don't want to put you to too much trouble.

Dr. AYRES. Let me see if I can get this dug out for you and come back to it. I have the individual case stories here. I don't remember offhand, but we will see if we can get that in a moment.

EXHIBIT No. 522

COMPUTED RATES OF INTEREST ON 31 INSTALLMENT TRANSACTIONS
IN WHICH QUOTED INTEREST RATES WERE 10 PERCENT

MASSACHUSETTS



BASED ON MASSACHUSETTS COMMITTEE ON CONSUMER CREDIT, REPORT OF FEBRUARY 17, 1936

When credit cost of 31 "10 percent" contracts were computed as actual annual interest rate, only 1 approximated the quoted rate. In 13 of the 31 contracts the actual interest rate was at least 3 times the quoted rate.

Mr. HENDERSON. Could you tell me on these transactions, were refrigerators and clothing included?

Dr. AYRES. This study covered a series of commodities which are ordinarily sold. The most important were automobiles, furniture, refrigerators, radios, all kinds of household labor-saving devices, men's clothing, typewriters, coal, and then it petered down to a lot of other items as well.

The CHAIRMAN. Was this table made upon the basis of 31 transactions?

Dr. AYRES. This particular table was made on the basis of 31 transactions. You see, there were 506, I think it is, in the neighborhood of 500 in the total study. Then we sorted out those in the total study which fell into the category of advertising at 10 percent, and the number which fell into the category of advertising at 10 percent was 31.

The CHAIRMAN. Do you think that is a large enough sample on which to base a conclusion as to the general practice?

Dr. AYRES. No; I certainly don't, but I think it is a very important sample in showing the problem. Here was a study taken at random in 21 Massachusetts communities divided between medium-size towns and Boston; the largest number of cases came from Boston. And then that study was made in a series of established stores. The Commission did a very careful job, as far as I have been able to discover, and what they did was to take only established stores of reputation, in other words they didn't go to any of the gyp places—all that was eliminated before they started, and then they took whatever the store sold on a time basis.

The CHAIRMAN. These transactions, then, as I understand your testimony, are transactions that were carried on by reputable stores in Massachusetts.

Dr. AYRES. The study says "well established."

The CHAIRMAN. Well, I think we can use the two phrases as synonymous.

Dr. AYRES. I think they are probably expected to be synonymous.

The CHAIRMAN. At any rate, those who conducted the study avoided going to stores which had the reputation of exploiting the customer.

Dr. AYRES. That is what I understand from reading the report, which was done under what was understood to be very competent auspices.

The CHAIRMAN. So the study may then be interpreted as reflecting the conditions which exist in the credit trade in well-established stores?

Dr. AYRES. Yes.

There is one more series of charts, which I will just show you briefly, that is on 5 percent, which tells roughly the same picture, except it jumps around very much, and it indicates that there is some further study needed relating to type of product, and the reason for the store giving 5 or 6 or 10 percent advertised basis of percent. The study doesn't indicate what that is, but you will see that in this 5-percent story we find that on the basis of straight percentage—that is, the relation of the unpaid balance to the carrying charge—we get 35 percent that falls below 6 percent, then it jumps around and we find between 12 and 18 percent carrying charge, 22 percent of the cases; then it jumps again, 12 percent are between 30 and 50.

Mr. MONTGOMERY. I should like to see these charts.

The CHAIRMAN. All of these charts may be received.

(The charts referred to were marked "Exhibits Nos. 523 and 524" and appear on pp. 3361 and 3362.)

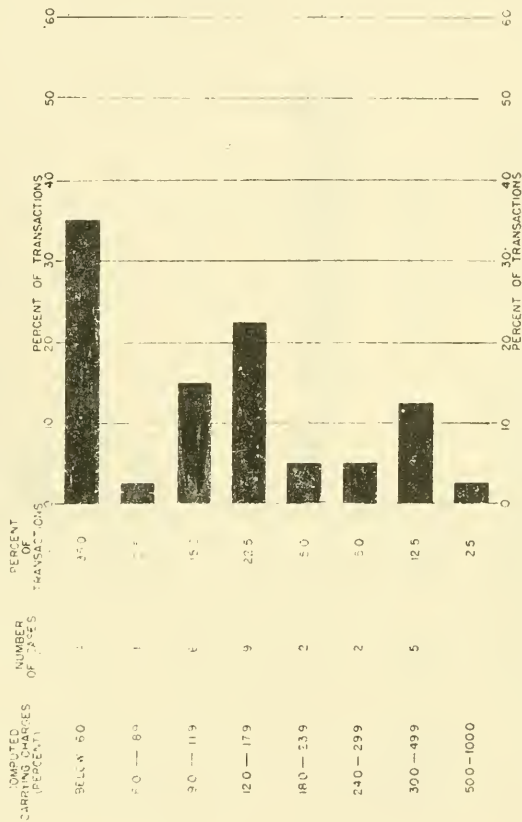
Dr. AYRES. The largest percent on this 5-percent basis, 52 percent of the cases with 21 cases, came between 9 and 10. Then there is a gap in the chart, and we find that 17 percent came between 30 and 50, and that 10 percent—only four cases in this case, because again it is a rather small sample—came between 50 and 100, and none over 100.

The interesting thing is, however, when you put these charts side by side and ask yourself as a consumer wishing to buy which terms

EXHIBIT No. 523

CARRYING CHARGES AS PERCENTAGES OF 'UNPAID BALANCES IN 40 INSTALLMENT TRANSACTIONS IN WHICH QUOTED INTEREST RATES WERE 5 PERCENT

MASSACHUSETTS



BASED ON MASSACHUSETTS COMMITTEE ON CONSUMER CREDIT, REPORT OF FEBRUARY 17, 1939

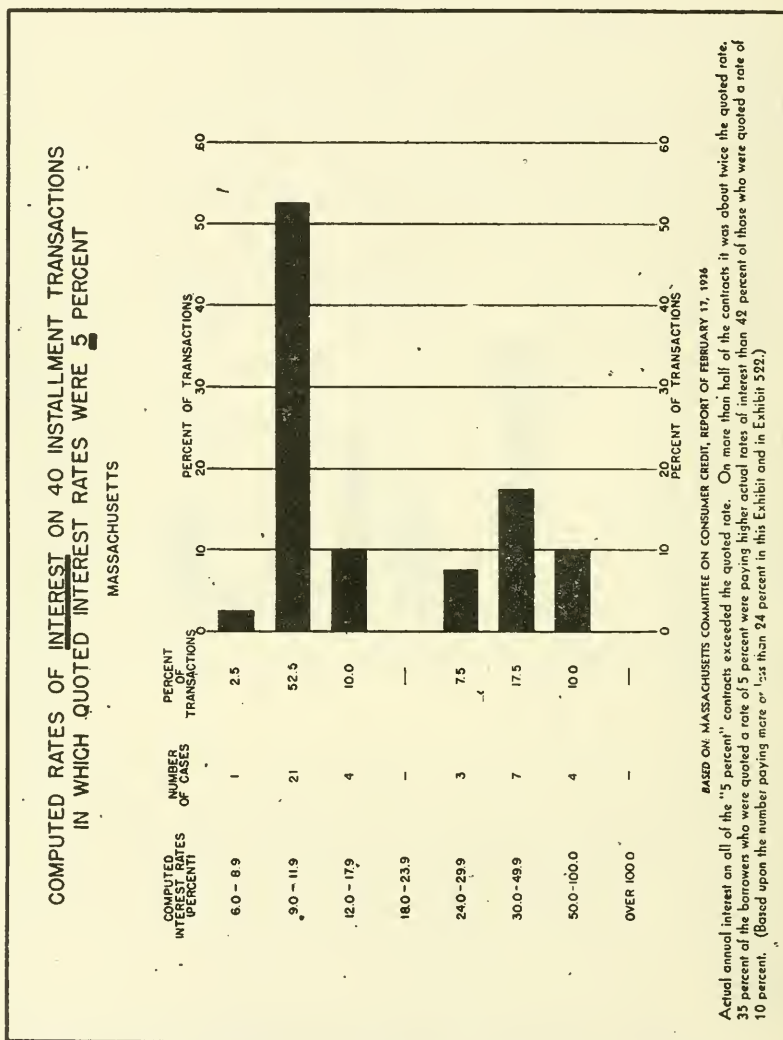
In more than one-third of the "5 percent" contracts analyzed the percentage of the cost of credit to the amount borrowed approximated the quoted interest rate. Note the following from Exhibits 519, 521, 523. When the quoted rate was "10 percent," credit costs exceeded 30 percent on no contracts. When the quoted rate was "6 percent," credit costs exceeded 30 percent on 5.7 percent of the contracts. When the quoted rate was "5 percent," credit costs exceeded 30 percent on 15 percent of the contracts.

you should look to as being the most advantageous. It is impossible to say on the basis of the charts as they are, because there is such overlapping between the rates charged if it is advertised at 5, advertised at 6, and advertised at 10, and you can't tell at all where your best chance would lie in terms of this habitual practice.

Mr. HENDERSON. It might easily be, might it not, Dr. Ayres, that as far as the consumer is concerned in these particular cases he would be better off to pay a stated interest rate of 10 percent than in some of the other cases where it was nominally 5 percent?

Dr. AYRES. There is a whole series of individual cases in which that is true. It can't be said as a generalization, but it can be said in a whole series of the individual cases.

EXHIBIT No. 524



Dr. LUBIN. Dr. Ayres, I take it that you have been paying some attention to the great increase in advertising that has occurred in the last few months by various organizations that lend money on a 5-, 6-, and 10-percent basis. I have been conscious of the fact that both newspapers and magazines have carried more and more adver-

tising recently from such financing firms. Do you know of any well-established financing firms that finance either automobiles, refrigerators, or any of these standard products that will lend you money for less than 10 percent a year?

Dr. AYRES. I can't answer that question on any careful basis. There were individual cases in this study which actually showed a lower rate, and there are automobile firms which advertise 6 percent. That leads me to the general credit situation. This is just a very small example of which I was able to get the material because of the Massachusetts study, but to bring to you in definite terms a very terrific situation as far as consumer credit is concerned. There are two parts to that problem. There is not only this question of exorbitant rates being given to the consumer in perfectly fraudulent terms by well-established stores, but there is the fact that this is done under contract and that the other terms of these contracts are simply unbelievable. This kind of credit is granted on terms the like of which is not known to the business community at all on a similar basis. The Massachusetts study has individual cases which show where the wages were subject to garnishment and individual cases where the seller refused to accept the returned goods, garnisheed the wages of the person involved, and forced them into bankruptcy.

Mr. HENDERSON. As I remember the report, it mentioned repossession after a considerable percentage of the contract price had been paid.

Dr. AYRES. That is another evil.

Mr. HENDERSON. Isn't that the largest evil in this question of credit?

Dr. AYRES. It is one of the largest. I wouldn't be able to say whether it is actually the largest.

Mr. HENDERSON. I asked you about one case of those two cases of 100 percent. It might easily be that the difference between, say, 100 percent and 6 percent in terms of dollars would not be extraordinarily impressive, that is, particularly as compared with complete loss of a purchased product after practically the entire contract had been paid. There is no doubt about that, is there?

Dr. AYRES. No; there is no doubt that of the two evils that very well may be the lesser, no possible doubt. In other words, many of these contracts contain clauses whereby title does not pass until the final payment is made. And further than that, they contain all kinds of detail clauses giving the right of the seller to repossess, in case of an automobile to enter upon the premises with no court procedure whatsoever, to repossess the automobile and oftentimes in cases of tires he would have the right to come by on the street and take the tires off of the car and leave the car standing or to take the car and force a repossession fee of \$5 and full payment of the total, just because there was a delinquency of a few days. And then there are all kinds of other very heavy charges in terms of delinquencies.

Then there are insurance abuses. The study indicates that all kinds of fake charges in connection with giving insurance on automobiles have been practiced, and I am testifying only on the basis of this study as illustrative of a problem which is very, very far-reaching and someone, some congressional committee, needs to blow off the lid on the situation which I believe will prove to be one of the most shocking in the country.

Mr. HENDERSON. Dr. Ayres, isn't the regulation of interest rates to be charged for the loan of money and credit a State matter and not a Federal matter?

Dr. AYRES. It is not regulated by State laws. There are all kinds of State laws in existence.

Mr. HENDERSON. It isn't constitutionally a Federal right—the right to regulate the rate of interest is reserved to the States.

The CHAIRMAN. Now you are asking Dr. Ayres to qualify as a lawyer. She didn't appear as an expert on constitutional law. I think we may say the answer to your question is "Yes." We know that to be the fact. This matter of local credit, borrowing money and this contract within the State is not a matter of interstate commerce, and therefore is not within the jurisdiction of the Federal Government.

Dr. AYRES. I would certainly suppose that that is true. There are cases in which it would probably be borderline.

The CHAIRMAN. Oh, unquestionably, yes.

Dr. AYRES. In cases of automobiles in interstate trade, and so forth, where the terms are published at the point of origin, and so forth.

The CHAIRMAN. There would be variations.

Mr. MONTGOMERY. Dr. Ayres, weren't you referring to the contract terms as well as the rate of interest, and couldn't it be possible that those contracts be made in interstate commerce?

Dr. AYRES. In terms of automobiles that very habitually is true. Now, whether there are subsidiary companies, whether that is around certain cases I don't know, but there are national credit corporations which handle financing automobiles.

The CHAIRMAN. The corporation which is doing an interstate business in credit would be in interstate commerce.

Dr. AYRES. And then you get a very difficult problem in terms of what can the State do about it. So this ties up with one of the added difficulties which the consumer faces in trying to buy goods. It is a part of the problem of all of the difficulty in meeting the merchandising situation. It ties up with the problem of oversales, terrific pressure on the consumer to buy often way beyond his means; and then it ties back to the fact that so much of it is fraudulent, that it affects his total purchases, relating to the whole flow of interstate commerce.

The CHAIRMAN. Of course, this question of credit has long been a most difficult one and from the earliest times the borrower has been compelled to pay extortionate rates of interest in many, many instances. It is not so long since it was almost universal, for example, in all of the States that the borrower who signed a note would in that very note sign away his right to resist payment upon the note. He would in the note itself appoint the person from whom he borrowed the money as his attorney in fact to contest judgment on the note. That has been abolished in most of the States by statute.

It may be of interest to make this comment because I think that an examination of the whole history of credit will show that the small borrower is very much better protected today than at any time in the history of this country, but of course the transition from local commerce to interstate commerce has brought about a condition in which it has been possible to renew some of the evils that were eradicated by State laws.

Dr. AYRES. Yes; and the question of usury has not been applied in terms of loans on time payment in most cases, so that while the same kind of usury practices may be possible here because the definition hasn't been carried over in terms of the relation of buying goods on time——

Mr. CHAWNER (interposing). From the point of view of the consumer, do you think that a substantial part of the difficulty that you have presented would be eliminated in advertising consumer credit of this type if the lender were required to always state the actual interest rate on outstanding balances?

Dr. AYRES. Yes, I do; and then the consumer can judge whether he can afford to pay what is actually necessary to pay in order to buy the commodity under those circumstances.

Mr. CHAWNER. That would seem to be a very simple matter.

Dr. AYRES. Comparatively very simple.

Mr. HENDERSON. That is the approach Massachusetts has taken.

Dr. AYRES. That is the approach and that is the reason for this study in the hope of being able to go ahead along that line.

The CHAIRMAN. Isn't there a move in that direction? It seems to me I have noticed recently in finance company advertisements declarations of fact that interest would be charged only on the unpaid balance and not on the full sum for the entire period.

Dr. AYRES. That movement has been very much fostered by the credit unions and there has been a lot of Government work done on that. Mr. Montgomery, I don't know whether you have the facts on what has been done on credit unions, but the development of the movement of credit unions is having a very profound effect in the field.

Mr. HENDERSON. You could say, as far as most of the actual interest rates charged here, the borrowing consumer would have been infinitely better off from the standpoint of his cost and certainly as to his treatment and his legal rights if he had borrowed the money from a credit union or any institution under State regulation and bought the thing for cash.

Dr. AYRES. In almost every instance he would have been very much better off.

Mr. HENDERSON. And he would not have had the same difficulties on repossession because under the legalized institutions no such right of replevin and garnishment runs.

Dr. AYRES. Exactly.

Mr. MONTGOMERY. Dr. Ayres, you had some information you wanted to give the committee on the subject of resale price maintenance, didn't you?

Dr. AYRES. Yes; I have.

The CHAIRMAN. Before Dr. Ayres takes up that phase of the study, I want to make note in the record with respect to the standard container acts, and I think it would be well to incorporate this brief statement in the testimony of Dr. Ayres with respect to the containers.

On August 31, 1916, Congress adopted an act¹ to fix standards for Climax baskets for grapes and other fruits and vegetables and to fix

¹ 39 Stat. 673.

standards for baskets and other containers for small fruits, berries, vegetables, and for other purposes.

Then in 1928, on May 21, there was passed an act to fix standards for hampers, round stave baskets, and splint baskets, for fruits and vegetables and for other purposes.

Any person who may be interested can find these acts set forth in full in the United States Code, title 15, sections 251 to 257, inclusive. It occurs to me, Mr. Montgomery, that somebody in the Agriculture Marketing Service might be able to prepare a statement that would be of interest to the committee upon the manner in which those acts have been enforced, the conditions which existed at the time that they were passed and the conditions that exist now.¹

Mr. MONTGOMERY. I shall certainly see that is done, Mr. Chairman. In addition I should note that there is also a Standard Barrel Act that, I think, was the first of these. We will get a statement covering that whole situation.

The CHAIRMAN. I think it would be of interest to the committee.

Mr. MONTGOMERY. We will file that. Dr. Ayres.

PRICE FIXING

Dr. AYRES. Another one of the very important problems which faces the consumer is buying under the so-called fair-trade laws and the resale-price maintenance laws. Now, there are available no adequate data to tell us how these laws are working. We need a great deal of material in regard to the relationship to what has happened to series of prices, to retail profits, on wholesalers' and manufacturers' profits, on the competition between large and small retailers, on the competition between national and private brands, on the competition between price-fixed and non-price-fixed brands before we can judge of the actual effect of the price-fixing laws. I refer of course to the Robinson-Patman Act and the Miller-Tydings bill and the State laws enacted pursuant to them.

Since it is impossible to judge in terms of a scientific judgment the effect of those, we can't go into the fact on which prices have been affected and how they have been affected. That is what we have got to learn. But in the meantime consumers are very profoundly worried by the situation, by the brief reports which come out indicating that in many cases in specific areas there are higher prices on many commodities which the consumer finds simply as a matter of investigation in a small way on his own. But only the Government or some well-financed, impartial research agency can make the kind of survey which we must have in order to judge what really is happening under these laws.

Certainly consumer organizations with their limited resources can't think of making such investigations. I can't testify, therefore, on the effect of these laws, although I fear that the effect will be harmful to consumers.

I do not wish to argue economics or price fixing. Such argument will remain more controversial than scientific until we get these facts which I have pointed out are needed.

¹ Mr. Montgomery subsequently submitted such statement which was entered in the record as "Exhibit No. 660" during hearings held June 7, 1939, and appears in appendix to this volume on p. 3487.

LOBBYING FOR PRICE MAINTENANCE LEGISLATION

Dr. AYRES. However, I have done this. I have collected a large number of excerpts from the press on the drug trade. These tell me as a consumer rather forcibly how that trade worked to get these laws passed and what it expects to get from these laws. I am filing these excerpts with you for your examination, and I would like to read just a few of the excerpts and put into evidence a slightly larger number, if that is permissible, or perhaps you would wait on them. Perhaps you could rule on that after I have read them.

The CHAIRMAN. Of course, you have introduced this with a statement that the study hasn't been sufficiently broad as yet to enable you to form a judgment, so that it is only part of the story according to your testimony.

Dr. AYRES. This is nothing of the story in terms of effect. This is merely excerpts from what those who worked to get the law passed hope to have it do. In other words, these are direct quotations from journals in the drug trade and others in trade journals commenting on it, so that there is no interpretative material or no statistical material involved.

Let me read to you samples of what this material is.

(The quotations referred to were marked "Exhibit No. 525" and are included in the appendix on p. 3460.)

Dr. AYRES. I shall call attention to the following on the question of getting the Miller-Tydings bills through Congress. Let me quote the Washington representative of the National Association of Retail Druggists as quoted in their journal for October 3, 1935 [reading from "Exhibit No. 525"]:

At the time of the opening of the present Washington office, a careful study was made of the methods used in the past in attempts to influence the legislative mind. After examining all these facts and the results obtained, we came to the inescapable conclusion that a new approach was not only in order but absolutely necessary if we were to expect results.

With this opinion crystallized, we conceived the idea of the Congressional Contact Committees in every Congressional District and in every state. This was based on the theory that in every such political subdivision there resided several retail druggists who were close personal or political friends of their Congressman or their Senator, and that an appeal or a request from one or two such individuals would be of far greater value than a hundred letters or telegrams from persons unknown to the legislator.

Two weeks later, in the same journal—this follows another quotation—

The CHAIRMAN (interposing). May I say it is not the retail druggists who have developed that technique?

Dr. AYRES [reading further from "Exhibit No. 525"]:

This is a task that must be accomplished by individual druggists in their own home territories. These legislators are now at home. Their ears are keenly attuned to things constituents desire. Do not overlook the fact that every Congressman and at least one-third of the Senators are keenly aware of the fact that there will be an election in 1936, and this will make them particularly attentive to your message.

The Miller-Tydings bill was introduced January 6, 1936.

Mr. MONTGOMERY. Are you quoting now?

Dr. AYRES. No; end quote.

Ten days later the National Association of Retail Druggists' Journal calls for action on a large scale, as follows [reading further from "Exhibit No. 525"]:

Officers and members of state and local associations and members of congressional contact committees from these states should be prepared to use every influence at their command to bring to the attention of the Senators the justice and economic necessity for this legislation as soon as it is called for by the Washington Office. * * *

At least 1,000 communications should be placed in the hands of each of these Senators on the Judiciary Committee when the call comes from Washington.

The bill failed to pass that year. The association reorganized its contact committees from a congressional-district basis to a county-unit basis. There was, as you remember, an election in the fall of that year. The November 5 issue of their journal states how it organized the druggists for that campaign [reading further from "Exhibit No. 525"]:

On September 1 the National Association of Retail Druggists asked the State and local associations and the members of the congressional contact committees to contact every candidate whose name appeared on the ballot for election to the Senate and House. * * * We now ask again that every State and local association * * * select a qualified man in every county and every state to serve on the congressional contact committee. * * * We further ask that when these county selections are made complete, an organized effort be made to contact personally every Congressman and Senator upon the Miller-Tydings bill.

On January 6, 1937, they appeared to be well organized. I quote from the January 7 issue of the journal:

Forty-four states of the Union are now organized as never before in history for the purpose of furthering legislation. * * * We have the proper contact men in this country. They now number over 2,000.

The pressure was being applied on a weekly basis, according to the February 18 issue of the journal:

Again we ask every local N. A. R. D. member to sit down immediately upon the reading of these columns and write again to the Senators and Congressmen, and to repeat that performance every week until you are advised that this legislation * * * has passed the last barrier in the congressional steep-chase.

The CHAIRMAN. Of course, this all has to do with merely the method of applying pressure to Congress, and as I indicated a moment ago, that is a familiar story, and it happens in every kind of organization. And, as a matter of fact, I fancy it won't be long before consumers will be doing exactly the same thing.

Dr. AYRES. If we are to have a real democracy, I am sure that must happen.

The CHAIRMAN. I think the committee would really be more interested in what you started out to tell us—what was expected to be obtained as a result of the legislation.

Dr. AYRES. Perhaps I can skip some of this and include some of the other quotations.

The CHAIRMAN. I don't mean to shut you off, Dr. Ayres, at all, because this is free, wide, and handsome for any representation at all.

Dr. AYRES. I want to give only that which is valuable, and the problem here is the fact that the consumer is very much worried to see a story of how a specific piece of legislation very definitely affect-

ing them, supposedly sprang out of a general interest and was engineered with the greatest care and planning by a single group. That there were others interested in the passage of these laws we all know, but that the organization to carry this on is here set out, and it very much adds to the consumers', well, terror, I think isn't too strong a word in terms of the effect of such legislation on him. When he realizes how this thing came about in terms of pressure by a very small, comparatively small in terms of our total population, interest group who organized on such a basis as to present a picture of pressure arising from the people all over the country.

And it is in terms of that fear of the consumer as to what is happening to us, where are we in the economic picture, that this is of value. It isn't of value in terms of the effect of the bill but if this group organized on this basis for the purpose of gain from this bill, we are not in position to judge what has happened, and it emphasizes to us the fact that we must somehow find out what is happening to us under this and how far we are therefore being affected by it, because obviously no special interest group is going to put this kind of organization into pressure for legislation unless they expect to get a great deal out of it.

Representative WILLIAMS. Is it your idea, as representing the consumers, that that pressure that was brought there resulted in the passage of the Miller-Tydings bill, or do you think that the Congress passed it simply because they thought it was in the interest of the consumers of the country?

Dr. AYRES. I think those things intermingle and tie up. In other words, I can't judge of the purposes behind the vote of all of the persons in Congress and in the Senate in voting for that bill, but the fact that they were deluged with letters and telegrams from their constituents at the proper time must have been of importance to them. That is, I take that as my opinion. I would think it would be.

Mr. HENDERSON. You know, Dr. Ayres, that the Congress did not have a separate and distinct opportunity to pass on the Miller-Tydings bill as such. It was attached as a rider, was it not, to an appropriations bill, and had a veto been laid against it, it would have vetoed also the District of Columbia appropriations?

Dr. AYRES. Yes. There is very interesting material here, some of the quotations showing now every time there was a delay a definite call for telegrams went out, and then as soon as the congressional situation was cleared, all of this turned to the President in order to prevent a veto, and he was deluged in the same way that Congressmen and Senators had been. So that there is a full campaign by a specific interest group which was based on the hope of making it a national affair, but it was in terms of the belief of these people. It was their affair.

Mr. BLAISDELL. Dr. Ayres, have you any evidence that would indicate that there was a considerable consumer support for this particular bill, or were there resolutions passed from various consumer or nominal consumer organizations in support of the legislation?

Dr. AYRES. I have here quotations showing how the trade tried to organize consumer support for the bill. While they were so well occupied with Congress, they were not neglecting their customers, and a campaign to get their customers behind the bill was as carefully undertaken as the campaign to bring to the attention of the legislators

their problem. Here we find, in the January 2, 1937, issue of the N. A. R. D. Journal [reading from "Exhibit No. 525"]:

Because of the fact that the drug store is open evenings, when other businesses are closed and when people have more leisure, the druggist is placed in a particularly advantageous position to talk to his patrons. He has an unparalleled opportunity to put in his best lies for the fair candidates for office and to take care of those who are unfair.

Then, again, over the signature of Mr. Dargavel, executive officer of the association, in the February 20 issue, we find:

I want to stress again the necessity for each and every one of you to fight this battle in your own home communities.

Here are some other quotations, from the April 15 issue:

No druggist can afford to be callous in the statements he makes regarding fair trade or regarding such price adjustment as may result from it. Whenever he is questioned regarding it by a customer, he must be quick to seize the opportunity to point out to the customer how fair trade would prove to the customer's advantage. Certainly if he hasn't sufficient ingenuity to do that, the least he can do is to say nothing.

Then there are some more quotations along the same lines.

That doesn't answer your question directly, but it shows the attempt that was being made to bring consumers into line to support the bill. I believe there is other testimony which is coming in terms of the general problem of consumer organizations, so that I will leave that for a later person to testify to.

Representative WILLIAMS. Were the druggists the only groups that were interested in this legislation?

Dr. AYRES. I believe not, but I am offering this as material which I was able easily to collect to bring in to show the problem, and to show how the consumers must necessarily feel in a situation of this kind. Here is the overt evidence of an attempt by special interests to gain by legislation.

Then we don't know how it has affected us. Maybe it hasn't affected us as badly as we think, but we can't know that until the facts are made available.

The CHAIRMAN. But you seem to be very suspicious.

Dr. AYRES. Well, after being a housewife for 10 years and trying to do a good job of buying, that is what happens to one if one is awake to the problems.

The CHAIRMAN. Well, of course, it is a fact that a great many retail merchants have felt that they were at a great disadvantage because of the growth of the national organizations which were invading the field of local distribution, and these retail merchants felt that to protect themselves against the danger of being forced out of business by reason of what they would call overcompetition in selling at retail of national commodities, or what they sometimes call chiseling and price cutting, it was necessary for them to combine and get legislation which would establish what they regarded to be a fair price. They call this a fair-trade campaign, and, of course, there are definitely two points of view with respect to this whole problem. We find it presented to us in various and different ways.

There was a substantial amount of opinion to support the codes under the N. R. A., and of course those codes operated to fix prices to the consumer, and when the N. R. A. failed, then these retail

merchants resorted to this method to save who they regarded to be beneficial to them and to the general public because they felt that the forcing out of business of independent retail merchants would have a bad effect upon communities, and therefore upon the people who live in the communities, and therefore upon the consumer. It is by no means a simple problem.

Dr. AYERS. No; there is no possible question but that all of this legislation arises out of the fact that terrific problems exist, and it seems to me that the reason for the existence of this committee is to try and see, if I may presume to give an opinion on the subject, or try and delve into, the reasons for the existence of these problems, in order to put them into focus.

The CHAIRMAN. Exactly. That is what we are here for.

Dr. AYRES. And it is to throw some light on the consumer's plight in relation to these problems that I wish to testify, because the effect on the total consumer is so vitally tied, more so than we are in the habit of thinking—with the welfare of the total economy, because only as we are good buyers can the whole mechanism of industry and trade be expected to function well.

Representative WILLIAMS. So far have you discovered any effects at all of the Tydings-Miller Act on prices to consumers?

Dr. AYRES. There have been a series of small studies which indicate various things. In other words, we can't summarize those studies because they haven't been wide enough.

Representative WILLIAMS. What has been your observation and experience along that line?

Dr. AYRES. As a consumer residing in New York, I know there are certain commodities I pay more for, and I know it is true of many of my friends, and it is true of a small study group who went out and studied a few commodities in a consumer group I was connected with. That isn't an economic answer; that is just a drop in the bucket in terms of the total problem.

Representative WILLIAMS. Have you any reason to believe that that is due to that particular act, or from other causes?

Dr. AYRES. In certain cases I am sure it is due to the act because the price has changed out of relationship with other prices. Where you get three or four items which are affected by the Feld-Crawford Act in New York, where the price change is entirely out of line with others, of course there are many, many factors that have to be considered, but there is some presumptive evidence that there is a relationship.

As an economist, I wouldn't for a moment say that the effect was from "a" to "b," but it is very important to get the fact that consumers believe they see instances where they are very much hurt, and so far as consumers can tell, as individuals, this is the problem. There has been some study which shows that in outlying communities certain types of prices have fallen, whereas in competitive areas the same prices have risen. The consumer is interested primarily in terms of the competitive price. Obviously if you buy at a neighborhood store you are paying for service and you are paying more than if you go down town and buy at a competitive market. Instead of having a service you take your own time and carfare and foot energy and go and buy in a competitive market. Not to be able to gain by that is definitely a loss to the consumer, and the question

is, How far is that true? To a certain extent we know it is true. It is one of the countervailing, counterbalancing influences in the picture.

Mr. MONTGOMERY. I would like to get it clear. Are you testifying either for or against resale price maintenance?

Dr. AYRES. I am not.

Mr. MONTGOMERY. Are you testifying as to their effect in general?

Dr. AYRES. No; I am not.

Mr. MONTGOMERY. Do you have any evidence in this that you have brought which shows your reason for fearing that the trade expects to do this or that with prices? As I gather, what you have here is material from the trade press on the subject of price maintenance. These quotations are from the trade press.

Dr. AYRES. Urging the trade to support this legislation as being in their interest.

Mr. MONTGOMERY. Do you have quotations there from the trade press showing either what they are doing with respect to prices under these laws, or what they hope to do?

Dr. AYRES. There was material in my long list here saying specifically that. Here are quotations which bring that out. They show a policy of boycotting manufacturers and newspapers unfair to the fair-trade laws, white list of other manufacturers, and coercion on manufacturers who don't comply with the desires of the association.

The CHAIRMAN. Those letters deal merely with the technic of applying pressure?

Dr. AYRES. This is the technic of applying pressure to use the laws to bring about that which they desire.

The CHAIRMAN. What I understood Mr. Montgomery to ask you was for any information which they had with respect to the purposes which were to be served by these laws.

Dr. AYRES. I think these quotations will bring that out. This is a quotation from the Drug Trade News of April 26, 1937, page 1 [reading from "Exhibit No. 525"]:

A boycott of the products of manufacturers who do not use and enforce fair-trade contracts, and exposé of manufacturers who are "secretly allied" with R. H. Macy & Co., and a concerted effort to fight private brands, were threatened by druggists at the militant fair-trade victory meeting held in conjunction with the convention of the New York Pharmaceutical Council at Hotel Pennsylvania, New York City, recently.

Another:

Following a mid-January mass meeting, druggists of the New York metropolitan area seemed likely to clear their shelves of items manufactured by five leading manufacturers. * * * To inject action into the meeting in place of talk, the younger element among the druggists "tossed out" the "old guard" and replaced them with younger leaders. * * * Simultaneously with the suggested removal of products of the five banned manufacturers from their shelves, the retailers launched an attack on two New York newspapers, the Times and the World-Telegram.

In their news and editorial columns, they had carried material antagonistic to the fair-trade law.

Mr. MONTGOMERY. I don't think you said what you were quoting from in all that last quote.

Dr. AYRES. That is from the N. A. R. D. Journal, February 6, 1936, page 146.

Going on to a further quote from the Druggist's Circular, January 1935, page 42 [reading further from "Exhibit No. 525"]:

Perhaps the question most often asked in discussions of price stabilization, fair-trade legislation, and the like is, will the retail druggist actually support the manufacturer who "plays ball" with him, or will he use the manufacturer's sales policy as an umbrella to protect sales of unknown brands of merchandise. Just what can the druggist do and what will he do in support of a manufacturer. * * *

Pages of theoretical consideration could be written on this subject and yet not be as convincing as the program which the druggists of the State of California are now putting into effect to demonstrate their support to the Dr. Miles Laboratories, Inc.

A month or two ago the Southern California, Northern California, and California State Pharmaceutical Associations invited the Dr. Miles California Company to participate with them in staging a Dr. Miles Week as a testimonial of appreciation of the company's stabilization efforts.. * * *

Further quote, Drug Topics, May 18, 1936:

Stand pat for the 33 $\frac{1}{3}$ percent margin of profit which is strongly advocated by the national association.

I think this meets the question.

Stand pat for the 33 $\frac{1}{3}$ percent margin of profit which is strongly advocated by the national association. Even though fair-trade legislation is passed, the chains would still have a 16 percent advantage for buying direct and would still have their hidden discounts unless an antidiscrimination bill is passed such as that represented by the Patman bill.

Then, from the Druggist's Circular, October 1935, page 40: The 1935 N. A. R. D. convention—

adopted as the principle for the guidance of members in their support of manufacturers the stabilization of prices, discounts, and profits to assure the efficient individual retail druggists at least 33 $\frac{1}{3}$ percent margin from suggested minimum selling prices; commended the retail druggists of California for their constructive work along fair-trade lines and for their handling of the *Pepsodent* case involving withdrawal of contracts.

A further quote:

Stabilization of prices, discounts, and profits to assure the efficient small individual druggist at least 33 $\frac{1}{3}$ percent margin on minimum selling prices.

Toward this end, your association has been active during the year. Countless conferences have resulted in the adoption of many new sales policies by manufacturers, some, perhaps, still short of the stated objective, but at least headed in the right direction. When the retail druggists of the Nation join their Association and give it their full support, not only in their individual interest but in the interest of all, the power of the Association to bring about these changes will be greatly amplified. The solution of this lies to a great extent in your hands—increase your Association's numerical strength and carry out its suggestions.

That was quoted from the N. A. R. D. Journal of September 22, 1936, page 1298.

I skip some and further quote, this time from Printer's Ink, Vol. 180, No. 9, August 26, 1937, page 6:

In the drug and cosmetic fields many manufacturers are being compelled to operate under these laws against their wishes and better judgment. Pressure is being brought to bear through the retailers' associations and their fair-trade committees. Manufacturers who do not file minimum prices are having their troubles with independent outlets in some States. Those manufacturers, such as ourselves, who have filed prices have had to set higher minimums than they desired in some instances. The committees are not permitted, supposedly, by law to dictate what the minimum prices shall be but they are doing just

that by refusing to approve contracts containing prices which do not give the retailer what they consider to be a fair profit margin. In most cases the committees are insisting on a mark-up of at least 20 percent and usually 33½ percent.

I think that gives the purpose of the association in relation to law.

The CHAIRMAN. I think that the last quotation which you read is rather clearly illustrative of the thought I have had in mind and have attempted to express on several occasions during your testimony. It seems to me that these fair-trade laws, so called, whether the Miller-Tydings Act passed by Congress on the District of Columbia appropriations bill, or the various similar laws which have been adopted by the States, are merely manifestations of the effort upon the part of the local merchants to maintain some degree of local independence against the concentrated effects of the national movement. Organizations have appeared in the economic field of such great power and strength that they tend to dominate the economic picture for the whole country and to close out free, independent enterprise in local communities. These laws, like the various trade-barrier laws which are springing up in various States, the attempt by license or by preferences of one kind or another to exclude competition from outside the boundaries of the States, are all expressions of the fundamental desire of people, whether they are engaged in business or in any other enterprise, to maintain the largest possible degree of local self-government.

Dr. AYRES. I don't know whether a comment on that is in order. If it is, I would like to make it.

The CHAIRMAN. Quite.

Dr. AYRES. I certainly agree that all of this is the result of terrific problems in the distribution field and also of terrific struggles in the manufacturing field. There is competent discussion in terms of the fact that it often isn't the little fellow who benefits by these laws, and it seems to me that one of the most important factors which we have to open up is the question as to who it is who benefits. There is a good deal of competent hearsay, if we may speak of competent hearsay, which would indicate that much of the pressure back of the passage of these fair-trade laws was not of retail origin; that much of it was originated by certain very large interests who, in turn, were able to sell the idea of how the interest of certain small—

The CHAIRMAN (interposing). Large interests that wanted to sell the nationally manufactured goods to local distributors as their outlet in the field of distribution as against national chains which desire to control the local outlets.

Dr. AYRES. In other words, we have a battle royal in which we have many big interests fighting many other big interests and many small interests fighting big interests and other small interests, and in the interplay of pressures which results we get all kinds of benefits to all kinds of groups, and in the meantime the consumer, who is not organized, hasn't the money to make himself competent to judge what is happening under this threat of tremendous economic struggle going on above his head, is the one who suffers, and I believe because of his lack of competence upsets the whole appercart.

The CHAIRMAN. There is a good deal in that. Of course, concen-

tration of economic power has been accompanied by the steadily increasing unemployment.

Dr. AYRES. Certainly our unemployment problem is a major one.

The CHAIRMAN. As unemployment increases consuming power decreases and our problem is one of adjusting the local business to national business on such a scale that all factors, consumer, and retailer, and producer, will have a proper share in the entire economic system.

Dr. AYRES. Raise the general standard of living and other things will follow.

The CHAIRMAN. Exactly.

Are there any other questions to be asked of the witness?

Mr. O'CONNELL. Dr. Ayres, in a State such as New York where they have a resale price maintenance law as regards nationally advertised brands, to the extent that the law is effective, what independence or what function has the retailer in the sale of that product? We were discussing efforts that the so-called independent small retailer was making to retain his independence as a part of the distribution system, but as I understand it, if the resale price maintenance law is in effect and operative, he no longer has any independence as regards that particular product, has he? Isn't he bound by contract?

Dr. AYRES. He is bound by contract and that is why many of the retailers object to the law.

Mr. O'CONNELL. As a matter of fact, in most States isn't he bound even though he isn't a party to the contract as regards the nationally advertised brands?

Dr. AYRES. The courts have so determined in a number of important cases.

Mr. O'CONNELL. The statutes intend that to be so; isn't that so?

Dr. AYRES. They are working that way. I would prefer not to say what the statute intends, but the effect is that without question.

Mr. WILSON. Do you know what attitude certain nation-wide or perhaps international organizations such as McKesson & Robbins took with respect to the Miller-Tydings Act and the Patman Act?

Dr. AYRES. I have seen material (I do not have it with me) that McKesson & Robbins were the initiators of the fair-trade movement in California, and I have seen photostats of that correspondence indicating that they were very active. I don't know whether this is hearsay; I never had that material in my possession, but I have heard it.

The CHAIRMAN. We have no strict rule, but it is apparent that some of the questions which are being put to you are being put for the purposes of argument and not for the purposes of eliciting information.

Are there any other questions?

We are very grateful to you, Dr. Ayres. I think you have been a particularly enlightening witness.

Dr. AYRES. Thank you. I am delighted to see the committee thinking so hard about the consumer.

(Whereupon, at 12:25 p. m., the committee recessed until 2:15 p. m. of the same day.)

AFTERNOON SESSION

(The hearing was resumed at 2:40 p. m. upon the expiration of the recess.)

The CHAIRMAN. The committee will please come to order. Mr. Montgomery, are you ready to proceed?

CONSUMER SERVICES AND ORGANIZATIONS

Mr. MONTGOMERY. Mr. Chairman and members of the committee, we have been showing in various ways the confusion which confronts the consumers in the market place in the goods they buy and the prices they pay for those goods, and also the question of credit. This afternoon our first witness, Miss Persia Campbell, is going to talk about the confusion coming to the consumer movement from a different direction, confusion that results from the services being offered to consumers, both educating them with respect to commodities and helping them with setting up consumer organizations, services coming to them from interests that have goods for sale to consumers.

This whole subject raises a question of very great importance indeed for the consumer movement, because it will raise the issue whether or not the consumer movement is to be organized from a consumer basis or from some other basis. I am quite sure it is also a question of very great importance to this committee, because it determines in a very real way what part these consumer organizations will be able to take in the competitive process of the general discussion I made at the beginning of our period. However, it is a very difficult question to testify on in any general or loose way, and certainly shouldn't be done in that way, and for that reason Miss Campbell has prepared her statement and documented it very carefully and meticulously, and wants permission to read the statement to the committee so that she shall state exactly the facts she has and what their purport is.

Miss Campbell, will you take the stand?

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Miss CAMPBELL. I do.

**TESTIMONY OF MISS PERSIA CAMPBELL, EXECUTIVE SECRETARY
OF CONSUMERS' NATIONAL FEDERATION, NEW YORK CITY**

Mr. MONTGOMERY. State your name please.

Miss CAMPBELL. Persia Campbell.

Mr. MONTGOMERY. Where do you live, Miss Campbell?

Miss CAMPBELL. In New York City.

Mr. MONTGOMERY. Will you state your affiliation with the Consumers' National Federation?

Miss CAMPBELL. I am executive secretary of the Consumers' National Federation.

Mr. MONTGOMERY. Will you describe very briefly the nature of that organization?

Miss CAMPBELL. I think the Consumers' National Federation can be most aptly described as a coordinating committee or agency which was set up in 1937 by a group of consumer agencies and organizations in order to provide them with a centralized information and research service. Since that time it has expanded its activities considerably and has a very happy working relation with nearly all consumer organizations in the field, even those not originally responsible for setting it up.

The CHAIRMAN. Nearly all you say? Are there any exceptions?

Miss CAMPBELL. Not that I know of.

Mr. MONTGOMERY. I think you might mention some of the members of this committee.

Miss CAMPBELL. The chairman of the federation, is Miss Helen Hall, who is president of the International Federation of Settlements; the vice chairman is Robert Lynd, professor of sociology, University of Columbia; I am the executive secretary and acting treasurer.

Then we have a committee which is mostly in New York City, with a few outside members like Prof. Paul Douglas, University of Chicago. Some of the New York members include Dr. Ruth Ayres who was here this morning, and Mr. Dexter Masters who spoke here yesterday, and Miss Susan Jenkins, who is at the Henry Street Settlement in New York City; Miss Mildred Gutwillig is also in the settlement movement in New York; also a representative from the Consumers' League in New York City; and a number of others who are regarded as consumer leaders.

Mr. MONTGOMERY. Since you are going to be discussing the questions in part of the financing of consumer services or consumer organizations, I was interested in your statement that you are acting treasurer of the Consumers' National Federation. I take it your duties as acting treasurer are not very burdensome, Miss Campbell.

Miss CAMPBELL. I think it would be very hard for you to believe on how small a budget we operate in the Consumers' National Federation. Last year our total budget from membership organizations and small donations for all the work that we did, including the publication of a bulletin, five issues of it, was about \$2,000.

Mr. MONTGOMERY. Will you proceed with your statement, Miss Campbell?

Miss CAMPBELL. If you will permit me, sir, I should like to read this statement. I am presenting it on behalf of the Consumers' National Federation.

Traditional theory of the competitive system assumes that consumers are an effective bargaining factor in our economy.

Whether this was true or not in the past, it has been made abundantly clear in previous testimony that at present consumers, as individuals, are in an extremely weak bargaining position.

We consider this fact of serious concern, not alone to individual families, but also to our economy as a whole.

To lift themselves out of this position of helplessness, millions of consumers are asserting their right to two things: (1) their right to more facts about the goods offered for sale; (2) their right to organize for the protection and promotion of their interests as buyers.

Witnesses yesterday presented testimony showing how difficult it is for consumers to get facts about goods from advertising, from labels, from salespersons. They told also of the effort of consumers to organize around their own interests.

We plan to bring to your attention various practices of industry and trade which greatly complicate the efforts of consumers to obtain disinterested facts and to achieve their right of independent organization. I have grouped these practices under three main headings: (1) practices which capitalize on consumer desire for independent and objective judgment on the products of industry; (2) practices which raise doubts as to the objectivity of some of the so-called educational materials being distributed through the schools; (3) practices which appear to capitalize on the widespread consumer impulse to organize independently.

COMMODITY RATING SERVICES PROVIDED BY COMMERCIAL AGENCIES

Miss CAMPBELL. Among the first group of practices—those capitalizing on consumer desire for facts about goods—I would like to bring to your attention various enterprises which by their names or by seals of approval or other types of certification presume to provide consumers with unbiased information as to the reliability of goods, but which apparently are serving special and limited interests.

The uncertain meaning of various certification and approval systems has been a matter of grave concern to one of the country's leading technical professional associations. The Association of Consulting Chemists and Chemical Engineers addressed a letter to the American Standards Association on March 4, 1936, asking them to set up an American recommended practice for public approvals, certification, listing, or endorsement systems. The association in their letter said:

The increasing use of such terms as "approved" or "certified," where the basis of approval is not evident, threatens to throw suspicion upon all certifications or approvals, even upon those founded upon the most satisfactory standards and test procedures.

They further pointed out that in some cases standards for approval—are developed under the auspices of vendors and take little account of the consumer point of view. In still other cases there is no evidence of the existence of standards, and if they do exist they are not available to the public. Thus, it is not evident to the consumer whether such approvals are significant and valid or otherwise.

Mr. MONTGOMERY. Will you indicate when you are quoting and when you come to the end?

Miss CAMPBELL. The proposal of the chemist group was endorsed by the American Home Economics Association, the American Society for Testing Materials, the National Association of Purchasing Agencies, the National Bureau of Standards, and the Consumers' Project of the Department of Labor.

The April 25, 1938, issue of the executive edition of Retailing contained a news story telling of the progress of this project. This story states that—

The Association of Consulting Chemists and Chemical Engineers had enlisted the aid of more than 10 scientific and consumer bodies and requested the American Standards Association to investigate the possibilities of propagating standards for testing laboratories and other agencies certifying consumer goods.

The news story continues:

* * * it is predicted by the chemists that a number of professional endorsers will fade out of the picture and other agencies will probably have to revise some of their procedures if they intend their seals to carry the same prestige as formerly.

Let me give you one instance of a so-called certification and approval service clearly shown to be deceptive by the issuance of a cease-and-desist order by the Federal Trade Commission. This is the case of the Automotive Test Laboratories of America (F. T. C. Docket No. 3329, April 29, 1938). The Federal Trade Commission found that one Morris E. Newman, sole owner and operator of these so-called laboratories, had issued certificates of merit for certain products of the Chemical Products Manufacturers of Chicago, Ill.

Upon investigation, the F. T. C. came to the conclusion that these certificates—

are false and misleading in all essential respects, in that they were not the result of scientific, independent, and impartial tests by competent persons, but were prepared from material provided by the manufacturer of the products.

The Commission further found that the statements made about the products—

have had, and still have, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that all said statements and representations are true—

and that as a direct consequence—

a substantial number of the purchasing public have purchased such products.

An individual, trading as Consumers Bureau of Standards—

engaged in the business of selling and distributing in commerce * * * a publication purporting to list and grade certain consumers' goods—

has also been complained against by the Federal Trade Commission (Docket No. 3718, February 18, 1939). The Commission charges that the—

said Consumers Bureau of Standards is not a national nonprofit consumers' research and educational organization for securing and publishing outstanding values in a wide variety of consumers' products, based on comparative tests or examinations as to quality and price. Respondent does not investigate, test, examine, or report on articles, products or services for the benefit of consumers.

A different type of misleading set-up is illustrated in the case of the Ross Roy Service, Inc., of Detroit, which was proceeded against by the Federal Trade Commission (F. T. C. Docket No. 3125, January 19, 1939). The Ross Roy Service, Inc., represented that it—

was "an independent organization in no way affiliated with any manufacturer"; and that it was an "accurate and unbiased source of information."

On the contrary the Commission found that—

the truth and facts clearly indicate said information and data so published by respondent * * * was biased, inaccurate, and unauthoritative.

Also that—

* * * Kelvinator Corporation, agreed to and did pay said respondent, the Ross Roy Service, Inc., the sum of \$10,999.

The consumer is also confused about the basis for accepting the trustworthiness of advertising claims, particularly when they appear

in a publication which guarantees trustworthiness and reliability of statements made in their pages. For example, the Good Housekeeping Magazine states in a pamphlet of their education department, Bulletin No. 13, 1937, page 3: "It is the magazine's written promise that all products advertised in it are satisfactory, and that the essential claims made for them are true." And further, "It is the definite policy of Good Housekeeping to make its advertising pages trustworthy and reliable. Every product advertised in Good Housekeeping is guaranteed by us as advertised."

Many consumers are concerned about the inconsistencies between some of the advertising claims in Good Housekeeping Magazine and various stipulations of the Federal Trade Commission. For instance I have before me statements which have appeared in advertisements of Ipana tooth paste, a product of the Bristol-Myers Co. Alongside of these statements I have listed excerpts from stipulation No. 01714, dated June 21, 1937, issued by the Federal Trade Commission in which Bristol-Myers Co. agrees to cease and desist from making some of these statements. Let me read these to you. Remember that these objectionable statements all appeared in Good Housekeeping Magazine which purports to "guarantee" every product "as advertised."

MR. MONTGOMERY. Do you want to introduce those as exhibits?

MISS CAMPBELL. I haven't the originals here.

Let me read these to you. Remember, these objectionable statements appear in Good Housekeeping Magazine, which purports to "guarantee" every product "as advertised."

In the December 1936 issue of Good Housekeeping, an advertisement of Ipana stated:

But the civilized way to build firm gums is Ipana and massage.

Bristol-Myers agreed in June 1937, to "cease and desist" from saying "that Ipana and massage is the civilized way to build firm gums."

In the January 1937 issue of this magazine an advertisement of Ipana stated:

Don't risk being a "dental cripple." Change to Ipana and massage.

Bristol-Myers agreed in June 1937 to "cease and desist" from saying "that Ipana and massage will prevent one from becoming a 'dental cripple.'"

In the April 1937 issue of Good Housekeeping, an advertisement stated:

* * * rub a little extra Ipana into your gums. You can feel—almost from the first—a change toward new healthy firmness, as Ipana awakens the lazy gum tissues, and as new circulation courses through them.

Three months later, Bristol-Myers Co. agreed to "cease and desist" from saying—

that the rubbing of a little Ipana tooth paste into the gums will produce a new circulation, awakening the tissues and resulting in new, healthy firmness in the gum walls themselves.

Another instance of inconsistency between advertising claims presumably passed upon by this magazine and stipulations of the Federal Trade Commission have come to our attention. In this case the

product is Welch's grape juice, and the claims made for it appeared in Good Housekeeping Magazine.

Start drinking Welch's today and keep fatigue and fat away—
said an ad in the July 1935 issue, page 176.

On May 28, 1937, Welch's Grape Juice Co. agreed with the Federal Trade Commission (in stipulation No. 01620) that it would stop saying "that use of the product will 'keep fatigue and fat away.'"

Said an ad appearing in the October 1936 issue:

Thus you lose safely and comfortably—often 7 pounds a month, or more.

The company agreed with the Federal Trade Commission (in stipulation No. 01620) on May 28, 1937, not to say:

That use of the product will enable one to reduce to normal weight or that use of the product or any definite amount thereof will enable one to reduce any definite number of pounds within any definite period of time.

Can a consumer place confidence in "guaranteed" advertising in view of such inconsistencies as these?

Is it not reasonable for consumers to ask, in the face of guaranteed advertising to the claims in which the Federal Trade Commission takes exception, and of doubtful approval practices such as that of the automotive test laboratories mentioned above, and of products promoted by questionable "scientific" agencies—I repeat, is it not reasonable for consumers to ask when they are going to get reliable guides to buying?

It is our belief that this distrust can be set at rest only when a broad inquiry is made into the methods used by certifiers to certify products. Beyond that there is the larger task of establishing approved testing methods, and "certifying the certifiers." Some Government agency must take the initiative in attaining these services for consumers.

CONSUMER "EDUCATIONAL" MATERIAL SUPPLIED TO SCHOOLS BY COMMERCIAL AGENCIES

Miss CAMPBELL. Another problem is the use of the public schools for the distribution of so-called consumer education materials which are in reality propaganda for commercial products. We do not know how widespread this practice is, but there are enough known instances to justify concern on the part of consumers.

We wish to point out some of the issues involved in this problem by describing an instance in which the makers of a proprietary cold remedy, the Vick Chemical Co., appear to have used reputedly disinterested organizations as channels for getting publicity for the "Vick Cold Control plan" into the schools. The two organizations involved, wittingly or unwittingly, were Home Makers' Educational Service, of Freeport, N. Y., and the Women's National Institute, with headquarters in New York City.

The Home Makers' Educational Service is a commercial organization which sends a monthly bulletin containing lesson plans to a large number of home economics teachers. On the back of the Home Makers' Bulletin are listed 15 firms who manufacture and distribute products which support the Home Makers' Service. Consider the

approach which the Vick Chemical Co., one of the firms listed as supporting the Home Makers' Educational Service, makes to the public-school teacher. Here is a letter received by a public-school teacher on January 10, 1939 [reading "Exhibit No. 526"]:

DEAR TEACHER: AS you know, one of the most serious problems faced by teachers and educators is classroom absences due to colds.

You would doubtless welcome any plan which would help you reduce the seriousness of this problem * * *. Vicks Plan has been clinically tested in schools and resulted in reducing absences due to colds more than half. In fact, in the most carefully supervised of these tests, such absences were reduced more than three-fourths.

Through Home Makers Educational Service you are now provided with lesson material on Vicks Plan for classroom use. (See January 1939 Bulletin.)

In addition, we are glad to supply you with supplementary material consisting of:

(a) A Vicks Plan folder which describes the Plan in detail.

(b) A booklet carrying the complete technical report on the operation and results of clinical tests made of Vicks Plan over four winter periods and including 17,353 subjects.

(c) A report issued by the Women's National Institute on their recent Institute Forum on the Common Cold has been called to our attention. At our request, they have consented to send you a copy direct.

Two basic forms of medication form the foundation of Vicks Plan—Vicks VapoRub and Vicks Va-tro-nol. You are no doubt familiar with Vicks VapoRub—a standby in nearly every home for relieving miseries of developed colds. You may or may not be familiar with Vicks Va-tro-nol, a specialized medication for the nose and throat, expressly designed to help prevent the development of many colds.

We will be glad to send you a generous trial size bottle of Va-tro-nol free for your personal test and use. * * * Also available on your request are Vicks Plan folders to distribute to members of your class. Simply send your order to Home Makers Educational Service.

We sincerely hope Vicks Plan will be found most helpful to you * * * that it will prove practical in aiding you to bring about a new high in attendance records, as well as better general health for those in your classes.

Cordially yours,

VICK CHEMICAL COMPANY,
By L. RICHARDSON,

We submit a copy of that letter.

MR. MONTGOMERY. Do you want to introduce that as an exhibit? Let's identify this. This is a letter headed "Vick Chemical Co.," dated January 10, 1939. This is the "Dear Teacher" letter that you just read.

Acting Chairman WILLIAMS. Is that an exact copy of the letter you just read? I don't see the necessity of duplicating it in the record. It is a copy of what you have just read.

Miss CAMPBELL. We just wanted you to have the signature, that's all.

MR. HENDERSON. Couldn't we receive it and mark it as one of the exhibits, and treat it as we have done in the past—put it in the files, and not print it?

Acting Chairman WILLIAMS. We can do that. I don't see the necessity of having it go into the record again.

MR. HENDERSON. It becomes a part of the committee's record for reference and not for printing, then.

Acting Chairman WILLIAMS. It may be accepted for that purpose. (The communication referred to was marked "Exhibit No. 526" and appears in full in the text on this page.)

MR. MONTGOMERY. Now, Home-Maker's Bulletin, volume 24, January 1939, No. 5.

Miss CAMPBELL. We submit a copy of the bulletin of the Home Makers' Educational Service containing the lesson plan which presents suggestions for studying the problem of the common cold, including the Vick cold-control plan. This is Bulletin, volume 24, No. 5, January 1939.

Acting Chairman WILLIAMS. This may be accepted for the files.

(The bulletin referred to was marked "Exhibit No. 527" and is on file with the committee.)

Miss CAMPBELL. The study outline in section 4 of this bulletin makes reference to the Vick clinical studies and then suggests that the teachers—

discuss Va-tro-nol as an aid in preventing the development of many colds, and VapoRub to relieve developed colds. Give Va-tro-nol application to students with incipient symptoms of colds.

The Home Makers' Bulletin also recommends the use of a report issued by the Women's National Institute on their forum held in 1938 on the common cold.

The Women's National Institute is a women's organization sponsored by the Women's National Exposition of Arts and Industry in New York City, which organizes annual expositions of commercial products. We submit two copies of the institute report on the common cold in the form in which it was distributed "to the educators of American youth." It summarizes—

Mr. MONTGOMERY (interposing). Is there anything to identify this particular document?

Miss CAMPBELL. Look at page 7; you will find the reference to VapoRub and Va-tro-nol is changed a little in the two copies.

Mr. MONTGOMERY. Are these both the same thing?

Miss CAMPBELL. No; there is a change on page 7.

Mr. MONTGOMERY. These are both, Mr. Chairman, circulars of the Women's National Institute, on the subject of the problems of the common cold. The witness states that they are not identical, that there are some differences on page 7.

Miss CAMPBELL. Concerning the proprietary products.

Acting Chairman WILLIAMS. What do these purport to be?

Miss CAMPBELL. They are a report on the forum held by the Women's National Institute on the common cold in the form in which it was sent to the educators of American youth. We submit two copies because, if you will notice on page 7, there is a difference in the way the proprietary products are printed.

Acting Chairman WILLIAMS. You are offering these simply for the files and not in the record.

Mr. MONTGOMERY. Yes.

Acting Chairman WILLIAMS. They may be accepted.

(The reports referred to were marked "Exhibits Nos. 528 and 529" and are on file with the committee.)

Miss CAMPBELL. This report summarizes statements made at the forum by three outstanding doctors on different aspects of the common cold and then presents an outline of the report "of the North Carolina clinics on the common cold, including the details of the Vick plan." Due to the fact that three prominent doctors were quoted in this report, the Bureau of Investigation of the American Medical Association conducted an inquiry and issued a report in the Journal

of the American Medical Association for February, 1939, a copy of which is herewith offered also.

Mr. MONTGOMERY. I offer for the files a photostat from the Bureau of Investigation of the American Medical Association, dated February 4, 1939. That is from the Journal of the American Medical Association.

Acting Chairman WILLIAMS. It may be accepted for the files.

(The report referred to was marked "Exhibit No. 530" and is on file with the committee.)

Miss CAMPBELL. Replies received from the physicians indicated that they were not aware that their statements were to be attached to a report on the Vick plan. The Bureau of Investigation concluded:

Much of the material contained in the summary and the recommendations is satisfactory, but the obvious purpose of the whole performance was the ultimate recommendation for the use of these proprietary medicines. Having secured by this circuitous technique what appears to be scientific sponsorship for the products concerned, the next step was circulation of this leaflet. The ingenuity of American promotional and advertising agencies is proverbial. The effort here described may be admirable as a new departure in advertising technique; as a means of enlisting reputable organizations in the promotion of proprietary preparations by giving semblance of scientific and ethical sponsorship, it can only be condemned.

Mr. MONTGOMERY. That statement you have just read is quoted from the American Medical Association Journal?

Miss CAMPBELL. From the report I have just submitted.

We want to emphasize the fact that we are not here making any judgment as to the merits of the clinical studies made in North Carolina, nor the Vick products referred to above. We are not in a position to judge them. Nor do we completely know what were the relations between the Vick Chemical Co. and the agencies referred to above. We do submit, however, that this story centered around the Vick plan dramatizes an issue, that is the distribution of such material through the school. This issue is of major importance to consumers in their eager search for reliable information on the nature and use of consumer goods.

Acting Chairman WILLIAMS. In that connection, have you any further evidence that that was the general practice of the Vick Co.?

Miss CAMPBELL. No.

Acting Chairman WILLIAMS. Or is this just an isolated case?

Miss CAMPBELL. We have no further evidence outside the general advertising of the Vick Co. These agencies, however, like the Homemakers' Educational Bulletin, have sent out material for other companies in the same way.

Acting Chairman WILLIAMS. All right; proceed.

CONSUMER ORGANIZATIONS SPONSORED BY COMMERCIAL AGENCIES

Miss CAMPBELL. There is another serious difficulty which confronts consumers. There appears to be a growing practice on the part of industry to capitalize on the efforts of consumers to organize groups to protect and promote their own interests. We would like to have your committee or some Government agency inquire into the following series of events.

On November 30, 1936, a meeting was held by the Institute of Distribution. That, I understand, is a trade association of which some of the large chain-store groups are members.

At this meeting a resolution was passed instructing the managing director to prepare a program of public relations for the direct distributors of America.

As a result of this resolution, Wheeler Sammons, at that time managing director of the Institute of Distribution, prepared a confidential report and distributed it as a basis for discussion for a meeting called for March 15, 1937.

I should like to offer excerpts from this confidential report.

Mr. MONTGOMERY. Will you state again what this is?

Miss CAMPBELL. Excerpts from a confidential report prepared by Wheeler Sammons, managing director of the Institute of Distribution, preparatory to a meeting called for March 15, 1937.

Mr. MONTGOMERY. Do you want this introduced in the record?

Miss CAMPBELL. Whatever you think best.

Mr. MONTGOMERY. Can this be introduced as an exhibit?

Miss CAMPBELL. I propose to quote from it.

Acting Chairman WILLIAMS. Not without examination of it by the committee perhaps. I wouldn't want to take the responsibility of admitting this to the record further than for identification and discussion of it.

Mr. MONTGOMERY. May we offer it as an exhibit for the record and if the committee decides against that procedure then offer it for the files?¹

Acting Chairman WILLIAMS. We will do that subject to the approval of the committee.¹

(The excerpts referred to were marked "Exhibit No. 531" and is included in the appendix on p. 3468.)

Miss CAMPBELL. This report was entitled "An Outline of Direct Distribution Public Relations—With the Consumer Speaking."

This outline proposed a three-point program of organization:

(1) A national consumer organization; (2) Consumer Foundation, Inc.; (3) A National consumer mouthpiece or voice, "Consumer's News," or any similar publication * * *

To promote the plan for the development of "a national consumer organization," Wheeler Sammons reported on experiments which had already been undertaken to organize housewives with \$2,500 or less a year. This experimental organization was undertaken to determine whether enough of such low-income housewives could be brought together to—

make effective the appearance of selected housewives * * * before legislative committees and meetings of state legislators.

This experiment was said to be—

successful to the extent that it demonstrated (a) the background availability of housewives in the particular group selected and at a cost within reason, (b) the availability of selected housewives for appearances made logical and effective by the group background.

A national consumer organization—

¹ The committee subsequently approved publication of this exhibit.

according to this confidential memorandum—

would have as its stated purpose, consumer education. It was felt wisest, during the formation of the grouping, to lead up to specific discriminatory taxation and restrictive distributive regulations through broader tax and cost-of-living matters, general hidden taxes, and cost-of-living indirect taxation, as well as state and local governmental costs.

The second point of the proposed public-relations program was a consumers' foundation. In the plan for a directing board for this foundation, it was stated that—

the direct distributors would be represented on this board, but would not dominate it, although contributions would effectively, in fact, control the existence of the foundation, admittedly.

It appears that a certificate of incorporation for a consumers' foundation was approved in the Supreme Court of New York, January 18, 1937.

Now, on April 30, 1937, Dr. William Trufant Foster, director of the Pollak Foundation for Economic Research, Massachusetts, called a luncheon meeting of businessmen, consumer leaders, and others, for the purpose of discussing the need for a consumers' foundation. At that time the proposals contained in Wheeler Sammons' report were not, of course, generally known, though rumors were current that the Institute of Distribution was also interested in consumer organization.

Mr. HENDERSON. May I ask a question? Do I get it straight that you are quoting from material you have and have submitted which was prepared by Mr. Wheeler Sammons?

Miss CAMPBELL. Yes.

Mr. Henderson. And that the consumers' foundation was to have members on it who were not consumers but were distributors? Is that it?

Miss CAMPBELL. The consumers' foundation of which I am now speaking?

Mr. HENDERSON. Yes.

Miss CAMPBELL. We are not prepared to say. We do not know, Mr. Henderson, whether the Foster foundation was the direct offspring of that report.

Mr. HENDERSON. I am getting at the report. In this report which Mr. Sammons prepared, one of the purposes was to set up some kind of a consumers' foundation?

Miss CAMPBELL. It was to be called a Consumer Foundation.

Mr. HENDERSON. But some who were not consumers but distributors were to be represented on the foundation?

Miss CAMPBELL. On the board.

Mr. HENDERSON. What was that phrase?

Miss CAMPBELL (reading):

But would not dominate it although contributions would effectively, in fact, control the existence of the foundation, admittedly.

That is a quote from that report.

Mr. HENDERSON. That the distributors would admittedly control through their contributions.

Miss CAMPBELL. Yes.

Mr. MONTGOMERY. They were to be a minority on the board.

MISS CAMPBELL. On the board itself. That I am quoting from the report, Mr. Henderson.

MR. HENDERSON. I hadn't gotten that quite straight.

MISS CAMPBELL. Now, on April 30, 1937, Dr. William Trufant Foster called this luncheon meeting in the city of New York, of businessmen, consumer leaders, and others, for the purpose of discussing the need for a consumers' foundation. At that time the proposals contained in Wheeler Sammons' report were not, of course, generally known, though rumors were current that the Institute of Distribution was also interested in consumer organization. At the luncheon, the question was raised whether there was any connection between the two efforts. In response to an inquiry, Dr. Foster stated that the luncheon expenses were being met by the Institute of Distribution.

During the summer of 1937, the Pollak Foundation—

MR. MONTGOMERY. Excuse me, was that the only answer to that question, just that the luncheon expenses were being met?

MISS CAMPBELL. So I am told. During the summer of 1937 the Pollak Foundation received a grant of \$25,000 from the Institute of Distribution to conduct a survey of existing consumer organizations "to try to determine precisely what kind of organization was most needed." That is from Bulletin No. 1, January 8, 1938, Consumers' Foundation, Inc.

I should like to submit a copy of that.

MR. MONTGOMERY. I offer this also for the files.

Acting Chairman WILLIAMS. It may be accepted for the files.

(The bulletin referred to was marked "Exhibit No. 532" and is on file with the committee.)

MISS CAMPBELL. On January 8, 1938, Dr. Foster was elected president of the Consumers' Foundation, Inc. Almost immediately one influential trade paper (Retailing, January 24, 1938) ran an editorial under the caption, "Facades Are Dangerous."

MR. HENDERSON. What are dangerous?

MISS CAMPBELL. Facades.

MR. HENDERSON. Oh, facades.

MISS CAMPBELL. Excuse me. Quoting the editorial:

It is right and proper that business and the consumer should work together. It is dangerous if a consumer facade is being constructed to be used for selfish purposes. The Consumer's Foundation, Inc., will be its own best witness as to its purposes and intentions.

It appears from such information as we have that the plans for the foundation were not developed further.

From New York we go to California.

MR. HENDERSON. I didn't get your terminal sentence there.

MISS CAMPBELL. It appears from such information as we have that the plans for the foundation were not developed further.

MR. HENDERSON. Did the agencies represented at that luncheon go ahead and give any expression of interest in the foundation?

MISS CAMPBELL. We don't know the subsequent development of it, Mr. Henderson.

MR. MONTGOMERY. So far as you know, the Consumers' Foundation has not been functioning.

Miss CAMPBELL. No; not as far as we know. We are asking for inquiry into some of these matters which we consider of great importance to the consumer position.

Mr. BLAISDELL. You were present at the luncheon?

Miss CAMPBELL. I was not present at the luncheon. I may say I was not admitted to the luncheon.

From New York we go to California. In that State during 1936 there had been a very active and successful campaign organized by Lord & Thomas, advertising agency, against the State Chain Store Tax Act, No. 22, of 1935.

Early in 1937 plans were under way to establish a Consumers' Foundation, or Consumer Education Foundation, or a Foundation for Consumer Education (it seems to have been variously known). According to the Home-Owned News, official publication of an association of independent merchants in San Francisco (August 1937), the new foundation was "created and financed by the chain-store group." We have a copy of these issues.

Mr. MONTGOMERY. Are you going to read from them?

Miss CAMPBELL. Yes; if there is time.

Mr. MONTGOMERY. Mr. Chairman, these are issues of Home-Owned News, dated August 1937, September 1937, December 1937, and October 1937. May we submit those for the files?

Acting Chairman WILLIAMS. They may be accepted for the files.

(The publications referred to were marked "Exhibit No. 533" and are on file with the committee.)

Miss CAMPBELL. In the issues of September to December of this same bulletin a series of letters were published. These letters were alleged to have passed between the San Francisco and Los Angeles offices of the foundation. These letters, if correctly quoted by the paper, reveal in clear and even vulgar terms that well known women were being used by a commercial organization for purposes which were not consistent with reputations which those women had won by their past performances.

Mr. MONTGOMERY. What do you mean by that? Can you read some of the letters?

Miss CAMPBELL. I would be very glad, if there is time, to read some excerpts.

Mr. MONTGOMERY. If you will just read excerpts to illustrate the statement you made.

Miss CAMPBELL. I think you would at least be entertained by the attitude of these gentlemen, if these letters are, as alleged, correct.

Mr. MONTGOMERY. Explain who this is writing to whom and about what.

Miss CAMPBELL. It is alleged to be a letter from the manager of the San Francisco office of the Foundation for Consumer Education to the manager of the Los Angeles office, relating to the difficulties they were having in getting the cooperation of women whom they felt it was very useful and important to have.

Mr. MONTGOMERY. Who was financing this Foundation for Consumer Education, do you know?

Miss CAMPBELL. We haven't the evidence as to that. It is implied in the Home-Owned News that it was being financed through the chain-store association and Braun & Co., public relations counsel, but

we have no way of guaranteeing that or knowing whether this is correct or not.

Acting Chairman WILLIAMS. Do I understand that is a letter taken from this paper introduced?

Miss CAMPBELL. Yes.

Acting Chairman WILLIAMS. Of course you can't vouch for its validity?

Miss CAMPBELL. We don't know whether it is correct or not. I will be glad to read it. I think it is very interesting.

Acting Chairman WILLIAMS. There is no objection.

Miss CAMPBELL (reading):

Mrs. B did an excellent job in arranging the luncheon and getting the right people there. Mrs. C was in town Friday and I entertained her in the Palace Cocktail Lounge for a couple of hours. Listen to this: I told her that Mrs. D's nose was out of joint because she had been pushed into the background and I was worried about some vice president to introduce the resolution, after Mrs. C had read her letter of invitation.

I omit all names, sir, because we cannot guarantee the correctness of this.

She rose to the bait and volunteered to make the resolution herself. If we can keep up the pretense that Mrs. D is sore, I think we are cinched. Mrs. E says that she thinks she can get the northern California vice presidents to vote for it if Mrs. D herself will say she believes it is a good thing. Mrs. ——— suggested that I should not bother Mrs. C this trip because she is all broken out with suspicions about everything and she might think that we were over-anxious. I followed her suggestion.

I would like, with your permission, to quote from another letter about a lady.

Mr. MONTGOMERY. What is this about?

Miss CAMPBELL. This is a lady whose cooperation they were very anxious to have. However, the letter quotes:

She was a tough nut to crack because she has a grudge against the chain stores. One of the first things she tossed at me was this remark: "I think that any consumer educational program should go thoroughly into the matter of false advertising." Then she asked me a direct question as to whether or not the chains had anything to do with this program. I asked her what her yen against the chains was, and she said that she had been falsely accused of being on the pay roll of the chain stores during the last campaign. I asked her how the deuce she could blame the chains for false propaganda circulated by the independents, and she said that the chain organizations, in her opinion, had capitalized upon the rumor by intimating very strongly that she was out actively working for the defeat of the chain-store tax. Just another little blunder which is having its repercussions now." However, she is a nut on public health, being an ex-nurse, and I kept harping away on the tremendous support we could give her health program in view of the fact that public health is a primary problem of the consumer. She has been having a tough battle fighting assembly bills 50 and 77, and I pointed out that it was tragic that our organization was not in operation in view of the fact that we could have carried on a systematic campaign against such obnoxious bills because they affect the public health.

The same letter continues:

I sent the release on the Housewives' League, which I read to you, to 200 Northern California papers. Mrs. A still is of the opinion that I am acting in my private capacity and that my only interest is providing more milk and vital necessities for undernourished school children.

Shall I read this first organization letter?

Mr. MONTGOMERY. You may read it if you want to.

Miss CAMPBELL. I can quote the difficulties they were having in guaranteeing the support of the P. T. A., the Parent Teachers' Association [reading]:

It seems foolish to me to paint a too-rosy picture of what we can do with the P. T. A. until we actually know for certain what we can do. To do so might cause another month's delay in getting our program started. In other words, I think it very foolish to promise the cooperation of the P. T. A. and probably their endorsement at their July meeting and then have the same force that opposed us give us another kick in the pants. Possibly I have been over-anxious to get this thing started. Possibly you can appreciate this when I tell you that the independents' organization is already in full swing in Northern California and I am powerless to do anything except in an undercover manner until we are actually organized. I am enclosing a clipping to prove this point. I sincerely feel that unless we get started soon our backers are going to say to us: "We are sick of what you birds say you are going to do. You had better do something damn quickly or else * * *." This is not pessimism; it's plain horse sense. I haven't the slightest doubt in the world that if we get this organization rolling you and I can achieve everything, and more, that is expected of us. In the months of our association, I have come to know your talents and capabilities and feel that once we get started we can go to town.

Well, sir, these are simply quotations from some of the letters there and I think perhaps it illustrates the point of view toward the consumer.

Mr. HENDERSON. It illustrates, if I get the inference on your part, that back of the facade there are commercial organizations that have set up these consumer organizations presumably to represent a consumer point of view and to enlist women's organizations and others for their own purposes.

Miss CAMPBELL. It arouses suspicion, Mr. Henderson. We have no direct information.

Mr. HENDERSON. That is a pretty mild term, Miss Campbell, particularly for a legislative committee such as ours. It isn't just the arousing of a mild suspicion on your part. Isn't it true that your organization has much more than a mild suspicion about some of these things?

Miss CAMPBELL. We haven't any information the correctness of which we could guarantee.

Mr. HENDERSON. I didn't ask that, but you have more than a mild suspicion?

Miss CAMPBELL. Personally I have. I wouldn't like to speak for the organization.

Mr. HENDERSON. Aren't you personally, then, pretty well convinced from what you know of these organizations that a lot of them are faked organizations?

Miss CAMPBELL. I think I should repeat the fact, Mr. Henderson, that it is very difficult to make that statement without some further information. A great many women have joined up with some of these organizations who may quite honestly have joined up.

Mr. HENDERSON. Isn't that the purpose, to construct an organization that women will ally themselves with honestly and then use the energies of these women for commercial purposes?

Miss CAMPBELL. That is the inference, but I think that in order to assist the consumer movement as a whole we really need an inquiry into the facts behind these organizations so as to make them publicly available.

Acting Chairman WILLIAMS. What is a real honest-to-goodness consumers' organization?

Miss CAMPBELL. I present to you the Consumers' National Federation and its members.

Acting Chairman WILLIAMS. You are satisfied that it is all right?

Miss CAMPBELL. Perfectly satisfied.

Acting Chairman WILLIAMS. As distinguished from some of the others you have described.

Miss CAMPBELL. All we ask is that we get the facts behind these organizations.

Acting Chairman WILLIAMS. How many are in your organization?

Miss CAMPBELL. The actual members I think at the present time number about 30 member organizations.

Acting Chairman WILLIAMS. Member organizations?

Miss CAMPBELL. It is a federation. It is a very loose agency. It is more of the type of a coordinating committee.

Acting Chairman WILLIAMS. Where did it originate? Have you given this?

Miss CAMPBELL. Yes, I have.

Acting Chairman WILLIAMS. I didn't happen to be here.

Mr. MONTGOMERY. Miss Campbell, I take it the federation would welcome, wouldn't it, the establishment of any sort of board of appeal or something to which any consumer organization could subject its facts so that the Congressman's question could be answered specifically, organization by organization?

Miss CAMPBELL. We urge that a little later in this statement.

Mr. MONTGOMERY. You would welcome a similar inquiry with respect to the Consumers' National Federation?

Miss CAMPBELL. Very much, sir.

Mr. CHAWNER. Miss Campbell, these letters are quite an indictment. Do these publications indicate at all the source of these letters, how they happened to be secured?

Miss CAMPBELL. Yes; they indicate that one of the former members of the foundation left the foundation and presumably made the letters available. However, we have only such information as was given there.

We, the Consumers National Federation, are not in a position to state what were the real aims of this Foundation for Consumer Education in California, nor the controlling powers in it. Reliable information about such developments is of great importance to consumers in deciding which organization they wish to join.

Now, may I ask you to go with me to Chicago to meet the National Consumers Tax Commission, Inc. This organization of "just average American housewives," according to a leaflet of the National Consumers Tax Commission—

represents a definite and concerted effort on the part of the women of America to effect a nationwide organization which will, first, present the facts about taxation to the public, and, second, reduce taxes to the level where they will not unnecessarily rob millions of families not only of the luxuries of life, but in many cases of even some of the bare necessities.

The leaflet goes on to say:

The women who originated the idea approached the business interests of their communities and of the country for assistance. These business interests agreed

that what the women were attempting was economically sound and their enthusiasm deserved financial backing. So they decided to put up their money and the women went to work.

There has been a considerable amount of material published in the trade press and elsewhere which raises doubt as to the nature and purpose of this organization. This material suggests that the National Consumers Tax Commission has some immediate connection with activities of Carl Byoir & Associates of New York City, a public-relations firm, and/or their clients, particularly of the Great Atlantic & Pacific Tea Co. Whether these suspicions are well founded or not we cannot say. We do claim the facts behind the organization should be disclosed.

In August 1938 there appeared an announcement in the press (New York Times, August 12, 1938) to the effect that the A. & P. had made a contribution of \$2,000 to the organizational work of the Emergency Consumers Tax Councils in New Jersey, said to be a body of women representing local consumer groups in 60 communities.

On September 15, 1938, George and John Hartford, of the A. & P. in a full-page advertisement in the New York Times, announced that they had decided to state their case on the chain store tax issue to the American people, that they had arranged with Carl Byoir & Associates to conduct the campaign. Among other things, they proposed to cooperate in the work and formation of study groups among consumers, farmers, and workers.

Mr. MONTGOMERY. Miss Campbell, do I understand from what you have just testified that you have presented evidence that A. & P. Tea Co. is behind this National Consumers' Tax Commission, Inc.?

Miss CAMPBELL. We have evidence that they have contributed money to the New Jersey Tax Emergency Council and also the National Consumers' Tax Commission.

Mr. MONTGOMERY. Haven't you heard—I think it is published in one of their bulletins—of a letter from John Hartford to the organization, promising, I think, unlimited financial support? Have you seen that bulletin?

Miss CAMPBELL. I have seen the copy of it; I haven't got it here, but it just offers contributions; it doesn't say that he is controlling the organization.

Mr. MONTGOMERY. He was just offering—

Miss CAMPBELL. Money to it. According to Tide magazine, September 1, 1938, pages 16 to 18, a group of men were busy in New Jersey throughout the summer helping in setting up in 1938—the Emergency Consumer Tax Councils in New Jersey. These tax councils have now become formally affiliated with the National Consumers' Tax Commission. This so-called Consumers' Tax Commission now claims to have as of March 1939 about 4,000 units operating throughout the whole country. Material issued by it includes a monthly bulletin, a series of pamphlets, a study program written for the most part about the subject of hidden taxes. We offer some of this N. C. T. C. material.

Mr. MONTGOMERY. This exhibit is made up of apparently a leaflet sent out by National Consumers' Tax Commission, Inc., telling its plan; it doesn't seem to be dated; certain letters from the National Consumers' Tax Commission (the addresses and names have been

stricken), certain excerpts from Tide magazine and from the News Letter of the Institute for Consumer Education, and a bulletin of the Institute for Propaganda Analysis of December 1, 1938.

Here is also a photostat of the front page or part of the front page of the Farmer-Labor Press of December 8, 1938, carrying a story about the hidden taxes on information furnished by the National Consumers' Tax Commission.

That is offered for the files.

The CHAIRMAN. It may be received.

(The material referred to was marked "Exhibit No. 534" and is on file with the committee.)

Miss CAMPBELL. Perhaps I can illustrate the type of material that is put out from a few excerpts in this little pamphlet entitled "Why Pay Taxes in the Dark?" There is a poster—I will offer this afterward—from which I will read:

There are 112 hidden taxes in a pair of shoes. These shoes cost you \$5.60. The shoes are worth \$4. You pay \$1.60 taxes; which amounts to price of new soles and heels.

Let us go shopping together in your own town or city, stopping in at the meat market. You buy 40 cents worth of meat; actually you get 29 cents worth of meat. The other 11 cents pays taxes.

Taxes take from children's mouths the nourishing foods they need for building healthy bodies. A remorseless guest at the family table, the hidden tax collector gulps, in effect, two eggs out of every dozen, nearly three slices out of every loaf of bread, and a substantial share of butter, bacon, milk, and other food.

A survey of the hidden taxes paid by one family in its food purchases revealed the unwanted guest consumed in a year the equivalent of 578 loaves of bread or 165 pounds of butter or 144 dozen eggs or 156 pounds of bacon.

Mr. MONTGOMERY. All of that was quoted from the pamphlet "Why Pay Taxes in the Dark?" That is published by the National Consumers' Tax Commission. May I offer this pamphlet also for the files?

The CHAIRMAN. It may be received.

(The pamphlet referred to was marked "Exhibit No. 535" and is on file with the committee.)

Miss CAMPBELL. There is no question that indirect taxes are a serious consumer problem. It is not clear from the propaganda of this organization that indirect taxes are synonymous with the so-called hidden taxes they write about. We have not made an analysis of these statements, but we believe such an analysis should be made by a responsible and authoritative agency.

In this connection I should like to submit a statement issued by the Tax Policy League of New York (September 1936), entitled "Tax Nonsense." This reads in part:

The flat statements that so many cents of the cost of a pair of shoes or a definite percentage of the rent bill, are the result of taxes are highly inaccurate. As a matter of fact it is doubtful that the people writing such stuff actually believe it themselves.

Our basic concern, however, is rather with the true motivation of the organization, rather than the validity of the material it distributes. The Consumers National Federation recognizes the right of any group to state its case before the public. We want to make it clear that in presenting this statement we are not as a federation opposing or supporting the chain-store tax proposals. We claim that consumers are worried and confused by the setting up of or-

ganizations purporting to be independent but which give rise to suspicions that they are "captive."

Mr. MONTGOMERY. I offer this for the files, also, Mr. Chairman. That is the "Tax Nonsense" from which she read, issued by Tax Policy League of New York, September 1936.

(The statement referred to was marked "Exhibit No. 536" and is on file with the committee.)

That consumers are confused is evidenced by a letter we have received recently (May 1, 1939) from the president of the General Federation of Women's Clubs. This reads as follows—

The CHAIRMAN (interposing). Is the Tax Policy League a favorite organization?

Miss CAMPBELL. Not a member or supporting organization of the Consumers National Federation.

The CHAIRMAN. This is not under suspicion?

Miss CAMPBELL. Not at the moment.

Mr. MONTGOMERY. It is hard to tell from one week to the next?

Miss CAMPBELL. That is one of our problems, Mr. Chairman. The General Federation of Women's Clubs claims to have about 2,000,000 members in the country. This is addressed to me personally, as executive secretary of the Consumers National Federation, and reads as follows:

Very frequently, almost daily, I am receiving requests for information regarding the National Consumers Tax Commission, 310 South Michigan Avenue, Chicago, Illinois. Women who have long been connected with the Federation as State, district, or local club officers are frequently invited to serve as organizers for the units of this organization. They write to us for definite information regarding the purposes of the National Consumers Tax Commission, how it is financed, who controls the organization, who owns it, or in whose name it is incorporated.

I understand that the organization is incorporated in the names of four men, but only the names of women appear on the letterhead. The impression is certainly given that it is a woman's organization.

Do you have any information, or can you secure information which I can use? The women who write to me are truly interested in the questions of taxation and reliable consumer information, but apparently there is great doubt in the minds of many of them regarding the origin, methods of finance, and the reliability of the programs which are submitted to them for study. There is a very definite criticism of the expense accounts granted the workers, the traveling representatives, the publicity men, and the apparently large appropriations for telephone expense accounts.

Any information you can give will be greatly appreciated, and I hope it will be of a type which I can use in replying to letters of inquiry.

Mr. MONTGOMERY. Were you able to answer Mrs. Dunbar's letter with information?

Miss CAMPBELL. I think what we need is to have some inquiry so we can get sufficient information to be able to reply adequately to that letter.

Mr. WILLIAMS. You did not answer that letter?

Miss CAMPBELL. I haven't the information to make it possible for me to answer it.

In an article to the New York Times (May 16, 1937), Prof. Robert Lynd, of Columbia University, stated that there are two specific dangers to the bona fide consumer movement in the setting up of "kept" consumer groups. First, there is a danger that not even the membership, let alone the general public, will know of the captive status of the organization. Obviously, he said, those who pay

the bills will—in this world in which it is taken for granted that you get what you pay for—see to it that only those issues are pushed which it is to the advantage of the business instigators of those groups to have pushed. Second, the very existence of such loudly publicized groups in the field will tend to lull bona fide consumer groups into thinking that consumers' interests are being cared for. "This," he declared, "can operate only to muddle up the field and in the end to throw discredit on the efficacy of all consumer organizations."

It is in this belief, in good faith, that we bring these matters to your attention and urge that you institute an inquiry into them. There should be some way—possibly similar to the required disclosure of the financial interests of newspapers in order to enjoy second-class mailing privileges—to compel such organizations to set forth the real parties of interest behind them. Women whose names appear in connection with any of these organizations are sometimes entirely innocent of their inner workings and objectives.

No doubt if we have raised questions about any organizations which feel they have already adequately disclosed their purposes and resources, they will welcome any public investigation of consumer organizations. In this connection may I quote from a statement which is said to have been made by Mr. Charles Wesley Dunn, attorney for the Associated Grocery Manufacturers, Inc.?

Those persons who say they represent the consumer professionally should be subjected to the same type of discipline as are doctors and lawyers.

He also said that consumer activities should be put under one Government department.

This suggestion for a central consumer agency was urged before the President by the delegation of consumers referred to by Mr. Montgomery in his opening statement yesterday, which came to Washington in February 1938. We submit for the record a copy of the memorandum presented by this delegation on the subject of a Federal consumer agency.

MR. MONTGOMERY. You want that offered as an exhibit to your testimony? May that be offered as an exhibit, Mr. Chairman?

THE CHAIRMAN. To be printed?

MR. MONTGOMERY. I suppose you want it printed?

MISS CAMPBELL. I should like to have it printed. It is a memorandum on the subject of the Federal consumer agency presented by a delegation of consumers to the President.

THE CHAIRMAN. It may be received for printing.

(The memorandum referred to was marked "Exhibit No. 537" and is included in the appendix on p. 3473.)

MR. MONTGOMERY. Where was this statement of Charles Wesley Dunn quoted?

MISS CAMPBELL. New York Times, May 9, 1939. It was made at White Sulphur Springs, W. Va., May 8.

MR. MONTGOMERY. You have heard of a company union, haven't you, Miss Campbell?

MISS CAMPBELL. I have heard of them.

MR. MONTGOMERY. How do you define a company union?

MISS CAMPBELL. I should define a company union as a union that was under the control of the employer.

Mr. MONTGOMERY. Do you think it would be an apt analogy to say that these organizations which you have been talking about, the type of organization you have been discussing, "kept" organizations, are somewhat similar to a company union in the labor field, only these are in the consumer field?

Miss. CAMPBELL. I should say a "kept" organization was certainly analogous.

Mr. MONTGOMERY. Any other questions?

The CHAIRMAN. Members of the committee desire to question the witness? The next witness, Mr. Montgomery?

Mr. MONTGOMERY. Mr. Ephraim. Mr. Chairman, all the way through so far we have been hearing from consumers. I think this next witness is going to give us very interesting testimony indeed. He is a manufacturer and he has a story to tell from his side of the market, about his effort to reach through to the consuming public with his products. It will tie very closely, I think, to the story that the consumers have been telling before. Will you be sworn, Mr. Ephraim?

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth and nothing but the truth, so help you God?

Mr. EPHRAIM. I do.

TESTIMONY OF JEROME W. EPHRAIM, JEROME W. EPHRAIM, INC., MANUFACTURERS OF COSMETICS, NEW YORK CITY

PROBLEM OF MARKETING NEW CONSUMER PRODUCTS

Mr. MONTGOMERY. Your name, please?

Mr. EPHRAIM. Jerome W. Ephraim.

Mr. MONTGOMERY. And your address?

Mr. EPHRAIM. 91 Warren Street, New York.

Mr. MONTGOMERY. What occupation are you engaged in, Mr. Ephraim?

Mr. EPHRAIM. I am a manufacturer of tooth paste, shaving cream, cold cream, and products of a similar chemical nature.

Mr. MONTGOMERY. Will you describe that business and how it operates? Tell us something about what it is.

Mr. EPHRAIM. As at present constituted it is a business of manufacturing, bottling, and supplying some 47 related personal needs such as I have indicated before, direct to consumers. The business is at present operating on a mail-order basis, on a basis of selling to representatives, on a basis of supplying such things to people as may come to our store, which is essentially in New York. I have attempted to get wider distribution than this, which is my story here today.

Mr. MONTGOMERY. Tell us what your plan was in setting up this business. Tell us what the scheme was you had in mind when you began this enterprise.

Mr. EPHRAIM. I had an idea I didn't want to become essentially another manufacturer of tooth paste. I will take tooth paste here for the purposes of illustration.

Mr. MONTGOMERY. You do manufacture tooth paste, don't you?

Mr. EPHRAIM. I manufacture tooth paste; yes, sir. I had an idea that to become a manufacturer of tooth paste one has to have some-

thing more than that and I had an idea that you had here something of a consumer market which I would like to be able to supply products to; a straight business proposition, as far as I was concerned. So instead of becoming simply another manufacturer I tried to approach it from what might be called a consumer angle. Instead of making another tooth paste I looked into tooth paste quite a bit. I consulted experts, and so on, and so forth. The thought came that instead of making just another product, the product would represent from the consumers' point of view as good a product as could be made.

Mr. MONTGOMERY. How did you go about that?

Mr. EPHRAIM. Well, the idea is simply this. I took the idea of finding out what products, from a consumer point of view—you have heard all along here the consumer telling you—should be supplied, and I simply came along with a broad plan and tried to supply them. Instead of manufacturing tooth paste, mouth wash, tooth powder, we will say, I went into the field of oral hygiene, to find out what might be the types of products that should be made, and going ahead and making them. Products were made, formulas were furnished, references were given. In fact, I did enough work in the field of oral hygiene to write a number of magazine articles, one on dentifrices, for instance, which originally appeared in the American Mercury, which was reprinted by the Reader's Digest and reprinted by the American Dental Association itself.

I merely state that not simply to tell you about it but because there is something more important than simply having a good product, and for the moment I will just tell you a word about the product, to sort of establish it for you.

The product has been on the market for well over 5 years. If you would use the product, you would find it is similar in nature, so far as its taste is concerned, to any product you find on the market. It has a consumer acceptance limited only by my ability to get distribution for it. The product was also accepted by the Council on Therapeutics of the American Dental Association, which meant it met with their advertising standards and also certain technical requirements they had. That is the official organization of dentists themselves.

The product, for instance, is listed in the American Dental Association's book, Accepted Dental Remedies. It is a booklet issued by the American Dental Association which lists products which it—I wouldn't say recommends—but products that a dentist would be likely to recommend. In other words, it is a selected list of products that meet their requirements, and there are today something like 10 or 12 of those products, and if you were to ask your dentist what dentifrice to use he would be likely to tell you any of those 12, which would include mine.

Mr. MONTGOMERY. How many of the well-known brands of tooth-paste are listed there?

Mr. EPHRAIM. There is only one nationally advertised product. There had been several others nationally advertised, but they were dropped from the list.

Mr. HINRICHS. Because of the character of the product or the character of the advertising?

Mr. EPHRAIM. It is a matter of both. The advertising has to be in accord with their ideas on advertising. Claims cannot be made

that cannot be substantiated, so far as the technical standards are concerned. They run abrasion tests. In other words, the greatest crime a tooth paste can commit is to be a coarse product that might scratch the enamel of your tooth. You have to submit evidence, run on abrasion-test machines, which they have the details of, that will show that the product is not abrasive, or is not coarse. In addition to that, there are certain gross (shall I say gross?) violations. For instance, sodium perborate is an objectionable ingredient in a tooth powder, although it is not an uncommon ingredient in some of the products on the market today.

Mr. MONTGOMERY. Why is it objectionable?

Mr. EPHRAIM. It burns the mucous membranes of the mouth. There are what are known as perborate burns. There are a number of them reported in the literature.

Mr. MONTGOMERY. Why is it put into tooth paste?

Mr. EPHRAIM. There is no particular technical reason why it is put in tooth paste. It has the effect of releasing oxygen, which makes you feel, when you are using it, that you might have something in your mouth. It has its therapeutic use in the treatment of trench mouth, which is a specific disease. It is not for general use; nevertheless, a leading brand of tooth powder contains sodium perborate, to my knowledge.

Mr. MONTGOMERY. Well, now, that is about tooth paste. You have studied the requirements for tooth paste and you published these articles about them and you have set up a business to manufacture a product, and it has been accepted by the dental association. Now, the next task facing you, I take it, was to market that tooth paste. Tell us your experience.

Mr. EPHRAIM. In a business such as this it isn't important alone to have a good product. As a matter of fact, it is almost of secondary importance. You have to have a good story to sell that product and, what is even more important, the wherewithal to get that story across.

I have indicated very briefly the appeal I tried to establish for these products. In other words, I developed what was to me a merchandising idea. Other people sell tooth paste on the basis of correcting acid mouth, perhaps, or curing pyorrhea, or preventing bleeding gums, and so on. Unfortunately I couldn't make such a tooth paste, and no one else can for that matter. But I had this idea of attacking it from the point of view of the consumer.

To take an ambitious comparison to illustrate it quickly, I tried to be a sort of M. I. T., a sort of laboratory to find out what these products were, what they should be, and make them accordingly.

I took that idea and the products to many of the leading distributors in the country. They could be named if necessary, but it included the largest mail-order concerns in the country, the largest retail department stores in the country, and two of the largest drug chains in the country, and incidentally, in a small way, I offered it to individual outlets, individual druggists, and a few other department stores.

Invariably the story was the same: "You have a very good product, the price is right, your story is good, but bring customers to us. You bring customers into our stores to ask for your product and we

will be very glad to carry it." In other words, create a demand; in other words, advertise it.

Advertising involves an expenditure of money that I wasn't able to make.

Mr. MONTGOMERY. What did you find out it would cost you to put your product on the market the way these outlets were suggesting to you?

Mr. EPHRAIM. I took the matter up with several advertising agencies and it involved, according to one well-known advertising agency, at least \$100,000 to find out how the thing might go; in other words, \$100,000 to try to get national distribution for a product which has, according to the Department of Commerce, a wholesale value of something like \$35,000,000 (tooth pastes and tooth powders). According to a magazine survey made by the Fawcett Publications, 90 percent of that business is in the hands of 10 brands. In other words, the crumbs, as it were, are divided among such other manufacturers as there may be. There doesn't appear to be a meeting ground with consumers on the thing, and to become a national distributor or to establish a product on a national basis would involve, you can imagine, a considerable sum of money. One hundred thousand dollars would probably be needed to establish the fact whether or not you could even put the product over.

Mr. MONTGOMERY. Let me get that clear. The \$100,000 outlay that the advertising industry suggested was solely for the purpose of determining how or if this product could be put across to the public?

Mr. EPHRAIM. Correct.

Mr. HINRICHS. On a national basis?

Mr. EPHRAIM. On a national basis. In other words, you take even the well-known brands of tooth paste on the market today. When one of them wishes, as they all do, to plan their advertising for the following year, there may be three or four appeals that they may want to use. They don't toss their million dollars or whatever it might be just on a table. They run tests themselves. This year, for instance, one tooth-paste manufacturer ties up his tooth paste with the World's Fair. In other words, if you buy this tooth paste you might get a free trip to New York. Another appeal might be almost anything.

From my point of view, to try this out, you would go to certain selected communities. In other words, if we can sell the tooth paste, we will say, in Richmond, Va., we can sell the tooth paste in Akron, Ohio, we will say, and so on, and build it up. In other words, you have to do a certain amount of exploratory work, testing, trying this idea and trying that idea, all of which runs into a considerable sum of money, as you can imagine.

Mr. MONTGOMERY. Is that what the \$100,000 outlay was for, to do that exploratory work?

Mr. EPHRAIM. Yes; that is what it would be for. In other words, to impress the consciousness of the name on you it is necessary for any advertiser to get at you, as it were, in several ways. You can't just insert an ad in a newspaper and then run away. The value of advertising is in its cumulative effect. You might, just for the sake of illustration, go to Wheeling, W. Va., and run a number of newspaper advertisements in Wheeling. You might broadcast from the

local radio station; you might have a detail man who would go from dentist to dentist to tell your story and then leave samples of your product. That, as you can see, can run into a sizable sum of money.

(The chairman returned to the chair.)

The CHAIRMAN. What is the objection to it?

Mr. EPHRAIM. There is no objection, excepting the sum of money involved. I am not drawing a moral.

The CHAIRMAN. Then what is the purpose of the story? What are you driving at?

Mr. EPHRAIM. What I am driving at is this, that you have heard the testimony of people before me, more or less representing the consumer, who want a certain type of thing, certain information, and so on, and so forth. I am at the other side of fence here. I am trying to get to them. The purpose of all this is to attempt to show, at least, that we have a stone wall existing. I cannot get to them because I cannot get my tooth paste in the usual outlets because no store is going to carry that tooth paste unless I create the demand that I have indicated to you.

Mr. MONTGOMERY. That stone wall is these 10 brands which have been able to make outlays to establish themselves in the market; is that it?

Mr. EPHRAIM. You have a stone wall, a monopolistic situation, or anything you might want to call it, in which 10 brands control 90 percent of the business, according to the Fawcett Publications.

The CHAIRMAN. Yes; but you are talking about advertising. I confess that I see nothing wrong about advertising.

Advertising is one means of asserting competitive enterprise, and the fact that one person is successful in advertising and another person is not successful doesn't arouse any feeling of distress on my part. All human activity seems to me to be based upon the competition between individuals to impress themselves upon those with whom they deal. That has been the history of business from time immemorial, hasn't it been?

Mr. EPHRAIM. Yes, sir; I am not saying the advertising as such is bad. Of course, it isn't. What I am saying is this, that we have people over here who want products in a certain way. I am trying to reach those products. We try to maintain a free and open and competitive market. If I were, for instance, to make neckties, the basis of my competition with other necktie manufacturers would be how good a product I could make and how low a price I might be able to sell it at. That is fair competition, and I bow to it. But that situation doesn't exist here.

The situation is that a product, no matter how meritorious, can't reach these people with the present method of distribution.

The CHAIRMAN. Well, now, to make an illustration that might appeal to some of the members of this committee or at least to the congressional members, those who are elected, we go out to secure votes when we are running for election. We try to create a demand for our services. That is a perfectly natural activity, is it not, upon the part of the person who desires to serve the public in a responsible position?

Mr. EPHRAIM. Yes, sir.

The CHAIRMAN. And everybody engages in it. It might easily result, of course, and probably does, in the defeat of the more able

candidate. The candidate who succeeds is the one who has sufficient personality to create a demand for his services, and that is done by way of advertising.

Mr. HINRICHs. Mr. Chairman, to keep the analogy that I think the witness is trying to draw, it is that even the Congressman finds it helps to build the priceless ingredient if you have travel expenses from some source, and in the marketing of certain types of product the initial expenditure, the initial capacity to enter the market, has to do with the possession of rather substantial financial control.

The CHAIRMAN. I don't follow that at all. Is the inference to be drawn from this suggestion that there ought to be a prohibition on advertising?

Mr. HINRICHs. I still haven't discovered the witness' ultimate goal.

The CHAIRMAN. Is that your ultimate goal? Would you suggest that?

Mr. HINRICHs. No. I have some questions that I would like to ask later, too.

The CHAIRMAN. Does the witness desire to suggest there should be a prohibition on advertising?

Mr. EPHRAIM. No.

The CHAIRMAN. What is the purpose of the testimony, then?

Mr. EPHRAIM. Let me put it to you another way, if I may. When you are going out campaigning, so long as you brought on the analogy yourself—

The CHAIRMAN (interposing). I am perfectly willing to have that analogy pursued.

Mr. EPHRAIM. You have entered more or less a free and open market. We don't live in one of these so-called totalitarian states, as it were, where everything is rubber stamped, but let the best man win.

The CHAIRMAN. I have heard that phrase used in the political arena.

Mr. EPHRAIM. It is no reflection upon the elected members of that body that that always hasn't been true; but what I wish to say here is that advertising has, in this particular instance, created what might be termed almost a monopolistic situation. For instance, when the Government itself buys tooth paste for the Veterans' Administration or the C. C. C., or the Army, they don't buy it on the basis of curing pyorrhea of the C. C. C. boy. They have a very elaborate system of opening bids and having specifications for this product, and entering that market is a free and open market for tooth paste. I have on several occasions, for instance, received Government contract for tooth paste on that basis—purely a straight quality basis, with price. That I regard as an open market. I made, for instance, at one time, 6 tons of tooth paste for the Veterans' Administration. The next time some fellow came along and beat me out by half a cent a tube. I might have had some private thoughts under my breath about that gentleman, but nevertheless I had no justifiable or legitimate cause of complaint. The man was more efficient than I was in that particular case.

But if I go into the open market today, I can't do that at all, because the basis of competition there isn't the basis of quality and price, it is the artificial basis of brand competition.

Mr. MONTGOMERY. Now explain further what you mean by that artificial basis. I think that illustrates your story.

Mr. EPHRAIM. Through the constant hammering away over a period of years, and the expenditure of large sums of money, certain names become household words. If you were called upon to name these 10 tooth pastes, you probably could do it very quickly. Each of these tooth pastes, for example, is sold on sales appeals of various kinds. Take one, for example, is sold on the basis of correcting acid mouth, a very successful sales appeal. From the point of view of a manufacturer it doesn't matter whether or not that product is good, bad, or indifferent. From a technical point of view, as a matter of fact, there is a good deal that might be said against it. But my coming along and competing with that person, I am in no position whatever to compete, because it is entirely on the basis, through these outlets I have indicated to you before, of the advertised brands having, as I said, something like 90 percent of the business.

Mr. MONTGOMERY. Let me get it clear. Then, in order to compete, you must, as I understand your testimony, be able to do two things. You must be able to expend a great deal of money for advertising, considerably more capital outlay than is required to set up your factory and produce the product, and in addition you must sell it on some basis that you call sales appeal, which is not related to the actual quality or use of the tooth paste. Is that a fair statement of the problem you face?

Mr. EPHRAIM. That is it.

The CHAIRMAN. It doesn't follow, it seems to me, that the abolition of this national market which is obtained through advertising would be followed by reduction in price. As a matter of fact, it might be followed by just exactly the reverse, and the consumer might have to pay more for the product than under the present system, because I assume that you can have a lower price for a product if you have a large demand, if large volume of output and sales makes it possible to reduce the price of the single commodity.

I remember when I was a youngster the most popular cigarette brand that I knew anything about was the Sweet Caporal cigarette. Everybody seemed to be smoking Sweet Caporal cigarettes. For some reason or other the manufacturer of that cigarette didn't keep up with the modern trend in advertising, and Sweet Caporal gave way to other brands. But the price at which Sweet Caporal was being sold was higher than the price at which these highly advertised brands are now sold.

I don't think that people as a whole, with respect to cigarettes, have any idea that the extravagant claims which are made for them in the ads have any real basis. I don't believe, for example, that any cigarette is good for the throat, as we might be led to expect from the advertising, and I don't believe any consumer of cigarettes believes that they are good for the throat. The advertising merely creates a knowledge of the identity and brings about a demand.

All discussion of advertising, it seems to me, is totally irrelevant unless you can show that by the abolition of advertising and therefore the admission into the field of a large number of producers you would bring about an improvement of quality and a reduction of price.

Mr. MONTGOMERY. Mr. Chairman, may I, by way of answer to that, read to you from a letter I received, and then I think Mr. Ephraim can confirm from his experience whether or not this is usual. This is from the South Shore Consumers' Society in Chicago, selling tooth pastes at retail, and they advise me, in a letter of February 15, 1939, that they handle Mr. Ephraim's brand of tooth paste, and pay him for it \$1.20 a dozen, and retail it at 20 cents. They also handle Colgate's and Squibb's, for which they pay, respectively, at wholesale, \$3.20 a dozen and \$3.40 a dozen, and then retail it at 35 cents and 40 cents. The Squibb's package and Mr. Ephraim's package are exactly the same size. It retails at twice the amount charged for his, and the wholesale cost to them is almost three times the cost of his product to them.

Now, obviously, Squibb's is a very much larger operator than Mr. Ephraim. Do those price figures I read from the letter—

The CHAIRMAN. Well, then, Mr. Montgomery, do you suggest to the committee that advertising ought to be abolished?

Mr. MONTGOMERY. No; I think what Mr. Ephraim is saying that is of importance to this committee is this: Consumers have been testifying all along that they would like to be able to buy commodities based upon the facts as to what those commodities actually are, and Mr. Ephraim states rather convincingly, I think, that his product is at least as good as any other tooth paste, certainly so far as the official action taken by the American Dental Association—

The CHAIRMAN (interposing). That is an advertising claim which he might make, even in the newspapers, and perhaps get advantage from it.

Mr. MONTGOMERY. Yes; but that is based upon what are probably objective standards of the American Dental Association.

Then he says—his testimony is—"it isn't enough for me to have a good product and to manufacture a thing that actually meets the consumer's need. I, in addition, must have sufficient capital that I can go out and buy access to the consumer." In other words, making a good product is only part of the producers' job. In addition you must have a franchise, you must purchase a franchise to get access to consumers' choice. He can't even submit his product to the selection of the consumer.

The CHAIRMAN. It has never been otherwise, Mr. Montgomery, and it doesn't make a bit of difference whether he does his business on a national scale or on a local scale, he cannot sell to any consumer unless he does some sort of advertising.

Mr. HINRICHs. May I ask a question, Mr. Chairman?

The CHAIRMAN. Certainly.

Mr. HINRICHs. Mr. Ephraim, is your point with reference to tooth paste as a particular product, that you have a product in which the consumer can never be expected to exercise a technically discriminating choice unless the product is so villainously bad that it causes the teeth to fall out or scratches the enamel so that it falls off almost immediately, that the technical standards of a good tooth paste are, or would be, essentially established through technical testing. That would be a condition, I gather, of the tooth-paste business as you have described it. Would that be correct?

Mr. EPHRAIM. Yes.

Mr. HINRICHS. The second thing that I would gather from your testimony is that the manufacturer of a tooth paste meeting those technical standards is an art which any competent manufacturer of tooth paste could follow. There is no secret about the manufacture of a good tooth paste.

Mr. EPHRAIM. No.

Mr. HINRICHS. The third point, then, that I gather from your testimony, is that at the present time the consumer is spending a fairly considerable amount of money to be educated through advertising; and the fourth point, that if you were to make an advertising appeal to the consumer, it would be necessary to say something other than that you were making a really good tooth paste, that that is a common claim which could be made by a number of manufacturers, and that you need to add sex appeal or sweet breath or something else that is irrelevant in order to make a distinctive appeal.

Then, would it follow from those four points which you have been making that your conclusion is that the consumer could arrive at an intelligent choice much more cheaply if there were available a grading by a Government agency, for example, of the various tooth pastes that meet certain differentiated standards of technical adequacy? Is that the conclusion that comes out of your testimony, that in this kind of a product advertising is an extremely expensive way of establishing consumer guidance, and that it could be much more cheaply done and more accurately done through some form of impartial grading and standardizing of the product?

Mr. EPHRAIM. I am not here to say that because somebody else is lucky enough to have a million dollars to spend on advertising, and I may not have that, that advertising should be stopped. That isn't what I meant to say at all. I simply say that that situation is one in which a manufacturer of tooth paste simply can not make any headway.

The CHAIRMAN. Well now, let us assume that we have a situation; we have created another Government agency, as Mr. Hinrichs suggests, to test and grade these various tooth pastes so that each manufacturer, you included, may be able to say, "This new agency has given me Grade A."

Now, starting from there we have 11 tooth pastes, the 10 of which you have been speaking and yours, all of which have been designated by the Government agency as grade A. Where do we go from there? How are you going to get into the market, and how are the 11 of you going to compete to sell your products?

Mr. EPHRAIM. If there were a Government agency that would grade tooth paste, such as you have designated, which is more or less the general idea back of all this, my competitive position would be helped in that the same reasons would not continue to exist for a consumer to buy those 10 tooth pastes as existed before.

The CHAIRMAN. Suppose five of your competitors advertise this sex appeal of which Mr. Hinrichs talks. Wouldn't they have an advantage over you?

Mr. EPHRAIM. We all could advertise sex appeal, but we all couldn't advertise, for instance, that our tooth paste corrects acid mouth.

The CHAIRMAN. Of course everybody will agree that false advertising should be condemned, and I think there is a strong move to support what we call truth in advertising.

Mr. EPHRAIM. Yes.

The CHAIRMAN. But assuming, now, truthful advertising, is there any objection to it, and if there is no objection to it, what difference would the grading of these articles have upon the use of advertising and the success of the big advertiser in getting the field? In other words, after you have what you are talking about, unless you abolish advertising you haven't changed the situation at all, as it seems to me. You are, therefore, driven to make the choice between condemning advertising altogether or saying, "We will be just exactly in the situation then that we are now."

Mr. EPHRAIM. Well, for example, let's talk about the canned-goods business, about which I know nothing more than what one might know generally.

The CHAIRMAN. You really ought to testify about the business of which you know something.

Mr. BALLINGER. Mr. Ephraim, you say that 10 brands of tooth paste control 90 percent of the market. How many manufacturers make those 10 brands?

Mr. EPHRAIM. I believe that they are 10 different manufacturers.

Mr. BALLINGER. Twenty or twenty-five years ago were there more manufacturers of tooth paste in this country?

Mr. EPHRAIM. There probably were less.

Mr. BALLINGER. There are more now than there ever were?

Mr. EPHRAIM. I should think so.

Mr. BALLINGER. I thought these large companies were probably the product of merger and combination and that that is how they acquired national distribution.

Mr. EPHRAIM. Well, there is perhaps another reason why that didn't work that way. The use of dentifrice is becoming more widespread.

Mr. BALLINGER. If that were the case, I was going to say they simply raised the ante on you.

Mr. EPHRAIM. Of course, I am only answering what I believe. I haven't checked up.

Mr. BALLINGER. There is another point here. How many of these 10 brands are approved by the dental association?

Mr. EPHRAIM. One.

Mr. BALLINGER. Then it looks like 90 percent of that advertising is sheer waste from the standpoint of good public health and the things a tooth paste should do. We won't condemn advertising, but certainly the advertising that was exhibited here has a good deal of waste in it.

Mr. EPHRAIM. You might state it that way. I believe you could quite properly criticize the nine others certainly.

Mr. BALLINGER. If we went after the other nine that are in existence and made them put out a good product, by checking their advertising, perhaps then we wouldn't need your services.

The CHAIRMAN. Well, may I say, Mr. Ballinger, that the history of common law makes the distinction which is being made, or which ought to be made here today. There never has been any objection in

the law to what has been called "puffing." Every distributor was entitled to puff his own product, to boast about it in other words, and say it was the best in all the world. But when the distributor went beyond puffing to misrepresent the article, then he was violating the law, and that is a very sound distinction. But to try to make a new distinction the result of which would be to say that there shall be no advertising at all would, it seems to me, be entering into a very dangerous field to free enterprise, to individual initiative.

Mr. EPHRAIM. You have in New York City, for instance, graded milk which somebody spoke of before. Many of the large milk-distributing companies continue to advertise very heavily. There are also independent milk companies. I don't know what the proportion of business is as I am saying it to you. All I am saying is if I went into the manufacture of neckties, for instance, about which I know nothing, the competition would be on a straight efficiency basis. I go into this business, and that situation doesn't exist. I say it to you for whatever it may be worth.

Mr. MONTGOMERY. I don't understand that your testimony is an attack upon advertising at all. Haven't you said that what you want is to have these goods sold to the consumer so the consumer can know when he is getting a good tooth paste, a tooth paste that meets normal consumer needs? Is that correct?

Mr. EPHRAIM. Yes.

Mr. MONTGOMERY. And if their advertising or their label or their package carries some proof or evidence of that fact, that is the thing you are speaking for, I take it.

Mr. EPHRAIM. The competitive market would be opened up.

Mr. MONTGOMERY. Now, if that fact is required to be shown on the package, you wouldn't care, would you, what advertising they do in addition to that?

Mr. EPHRAIM. No; obviously people with more millions at their disposal are certainly entitled to have the use of it.

Mr. MONTGOMERY. I take it your argument is, then, that you as a manufacturer producing a first-rate product want to be able to give the consumer an opportunity to buy that product and want to be given an opportunity to compete in the market.

Mr. EPHRAIM. Well, I only wanted to say this, that as a competitive situation exists on a straight advertising brand basis, the market is more or less closed. It is not on a straight quality basis as it is now constituted. If there were grades or something equivalent to that, you would restore it somewhat to that type of competition, and I at least might be able to enter the market again. I simply say that on a straight quality basis, competition on a straight quality basis would be more likely. I am not talking of myself as an individual. The situation would be the same for all the hundreds of other manufacturers there might be, it would be more in the public interest and consumers could get what they wanted. This way there is no way of reaching them because of the stone wall that exists between us.

Mr. MONTGOMERY. In addition you are testifying that the tooth-paste market is preempted by 10 large manufacturers, and it would require a very large expenditure of money or a very large company to be able to get access to that national market.

Mr. EPHRAIM. Yes.

The CHAIRMAN. But he also testified that there are more manufacturers than there used to be.

Mr. EPHRAIM. I say that there are probably more. I only say this, I don't actually know, but the market for dentifrices is increasing the same as the market for soap, cosmetics. These are products that are coming into more general use. A generation ago people didn't brush their teeth at all probably and even today, perhaps one-third of the population do, due to education that has been carried on for a number of years. On that basis there are likely to be more manufacturers than there were in the past. I don't know the figures. It is simply that the market is very likely to be an increasing one.

The CHAIRMAN. Any other questions to be asked of this witness.

Mr. BLAISDELL. If I understand the testimony of the witness, he has stated that by and large on the sale of these products there is a tremendous amount of advertising sold along with the product which the consumer buys and the advertising comes at added cost. In other words, in addition to buying the dentifrice, I am also buying a lot of pictures in newspapers and a lot of other things.

Mr. EPHRAIM. Well, in addition to buying what might be called the proper functions of the dentifrice, you are buying certain illusions, if that is what you mean.

Mr. BLAISDELL. In fact, you are buying advertising and in this case, in accordance with Mr. Montgomery's record, the cost of that has been passed on to the consumer.

Mr. EPHRAIM. I can't say that so much as to say that we have here a product that we would be in a position to retail at 20 cents which is approximately half the price of these other products, if there is a means of getting that into the market. We have here—and I will ask you to assume at least for the moment—a product of certainly equal merit. We have a product that has the necessary background that would go with it. We have a product that could retail at 20 cents, which is roughly half the price of these other products, but there is no effective means of getting that to these people on the other side of the fence.

Mr. BLAISDELL. You don't think it would be possible for a large number of small manufacturers who have the technical information to do it by selling in a lot of local markets a standardized product to create the broad market for this product that has been created in the past through advertising?

Mr. EPHRAIM. Well, you see—let us assume in the city of Washington, five men, Jones, Brown, what have you, started to manufacture tooth paste. Those names would immediately languish on somebody's shelves. If there was some basis for identifying the quality of those products so when you bought Jones' tooth paste you would feel you were getting a satisfactory product, if the American Dental Association had accepted it or if there would be some other means of identifying it, you would then be willing to buy it. At the present time you are suspicious of it and would continue to pay 25 cents.

Mr. BLAISDELL. If tooth paste is tooth paste and not this name or that name, then do you think it would be possible for a group of small manufacturers scattered over the country, each one perhaps dealing in a limited market, to sell perhaps as much of the product as is sold now on the basis of national advertising?

Mr. EPHRAIM. I should think so, if tooth paste were tooth paste.

Mr. BLAISDELL. If that were the situation and you had competition between those small manufacturers, do you think you come down some place nearer to the 20-cent price?

Mr. EPHRAIM. Yes; very much so. For instance, if a situation as that existed, the competition between myself and these five other men would be a free and open one and the business would go to that man who could make a good product at the lowest price, the same as the Government buys tooth paste.

The CHAIRMAN. Suppose, Mr. Ephraim, after you got started in this field under this system and you were fortunate enough to induce Shirley Temple to use your tooth paste and, knowing that, would you refrain from advertising in the newspapers?

Mr. EPHRAIM. Well, there is nothing immoral about Shirley Temple using my tooth paste or advertising it.

The CHAIRMAN. Of course not, and you wouldn't hesitate to advertise the fact and spend money for advertising and get the business that would come from that use, would you?

Mr. EPHRAIM. I would infinitely prefer doing it on that basis that I said to you. The present basis of competition is such that I would have to get Shirley Temple or something of that nature.

The CHAIRMAN. Yes; but even though you have this grading which you speak of, you would still have the same condition exactly unless you prohibited advertising, and you insist that that is what you don't want to do.

Mr. EPHRAIM. Well, I still don't think so.

The CHAIRMAN. Of course, you don't think so.

Now, if I say that here are four tooth pastes offered to you and they are all Government grade A for the moment, if you as an individual want to buy the one tooth paste that Shirley Temple likes and pay 10 cents more a tube for it, that is your privilege.

Well, people are just like that and they want to do just that thing and there is nothing illegitimate about it. It just seems to me to be a complete waste of time, trying to talk about trying to prohibit advertising when you are not going to prohibit it.

Mr. MONTGOMERY. Since I brought the witness here and may be responsible for wasting your time, I want to answer that, sir. The witness has said over and over again he doesn't want to prevent anybody from talking about Shirley Temple.

The CHAIRMAN. That seems to do away with the whole testimony of the witness because you brought him here to make an attack on advertising but when he is brought face to face with that he denies the attack on advertising.

Mr. MONTGOMERY. I certainly object, sir, to the statement that we brought him here to make an attack on advertising, because that implies a motive that doesn't exist.

The CHAIRMAN. I don't want to imply his motive, but that is what he is—

Mr. MONTGOMERY. I think I will summarize in three sentences his testimony and then ask him if I have correctly stated it. He has said that (1) if the market were not preempted by 10 large manufacturers he would be able to get his products before the consumer; (2) he has said that if in those markets where tooth paste is sold to the consumer quality could be identified by a definite standard or grade,

then he would have an equal chance or perhaps a better chance than some to get the consumer to accept his product; (3) if he could do that and get his product before the consumer, he would be able to sell it at about half of what they are now paying for a similar product.

Is that a correct summary?

Mr. EPHRAIM. Yes.

Mr. MONTGOMERY. Does any member of the committee dispute that summary?

The CHAIRMAN. But all of which boiled down comes to the definite result that the condition which you describe cannot be brought about unless you abolish advertising.

Mr. MONTGOMERY. I don't agree, sir. I think it only requires—

The CHAIRMAN (interposing). Will you then answer the question that I have propounded to the witness and which he did not answer? Assuming the condition exists of grading five different tooth pastes, some new Government agency establishes the grade and all five are grade A, now then, unless you prohibit advertising what is to prevent one or two of those from securing a dominant position in the market?

Mr. MONTGOMERY. I think from his testimony—I can only base my answer on that since I don't know the tooth paste business at all—who will get the domination of the market depends upon who has the most money presumably. You ask me how this result—

The CHAIRMAN (interposing). Do you want to take the money away from them?

Mr. MONTGOMERY. If I understand his testimony correctly, he says the consumer can buy tooth paste for just half as much if two things are done: (1) If the existing monopoly in the tooth paste market is removed—

The CHAIRMAN (interposing). Now, wait. You are making the assumption that there is a monopoly. I think the witness testified that these 10 manufacturers are independent from one another when Mr. Ballinger propounded that question to him and the answer was that they were not controlled.

Mr. MONTGOMERY. Well, then I would say the concentration of control or the domination of the market. Ninety percent of the business is in the hands of only 10 manufacturers. If that situation could be removed and if standards were made available, then he says the consumer would be able to buy tooth paste at about half the present price and, as I understand him, that has been what his testimony is.

Mr. BALLINGER. Don't you mean that if the quality of the tooth paste were once established from the standpoint of health requirements that advertisement would be less costly to a newcomer like Mr. Ephraim, that price would then be the dominate factor and that Mr. Ephraim would have a chance?

Mr. MONTGOMERY. Now you are asking me to testify.

Mr. BALLINGER. If you once establish the quality of the tooth paste, I don't believe people are foolish enough to buy tooth paste because Shirley Temple used it. I think the great mass of people, if they could get a cheaper tooth paste would buy it if they knew it was up to specifications of dentists, and so forth, and properly testified to.

The CHAIRMAN. You know, it just strikes me, Mr. Montgomery,

that there are enough illegitimate practices in the economic world for us to try to solve and not bother ourselves with legitimate things which in the very nature of the human being you can't control.

Mr. MONTGOMERY. Well, sir, if you think that the sale of goods to consumers on a basis which doesn't tell them what they are getting at all, so they don't know what they are getting and have no assurance at all of what they need——

The CHAIRMAN (interposing). Of course I don't say that. You are not entitled to make that inference.

Mr. MONTGOMERY. I am stating what I think is a major illegitimate practice in our current system of commerce. That has been the contention of our consumers all the way through.

The CHAIRMAN. But advertising is not illegitimate.

Mr. MONTGOMERY. I am not saying a thing about advertising. We have been talking about lack of information to the consumer.

The CHAIRMAN. With that there is no disagreement.

Mr. MONTGOMERY. I think the consumers' position would be consistently this, that if the consumers can buy goods on the basis of fact it would not remove advertising. Advertising would still have its own part.

The CHAIRMAN. That is exactly what I am contending. The burden of this gentleman's testimony has been that because of advertising 10 firms dominate the market in his product and he can't break in, and I have said that even though you standardize the tooth paste, you don't remove the advertising; therefore, there is no change in the situation and unless you urge the abolition of advertising there is no sense in talking about advertising as an element in creating the situation.

Mr. BALLINGER. Senator, I understand the gentleman's testimony to mean if perhaps a simple service could be performed by the Government of saying a tooth paste met a certain minimum requirement of health, that the difficulty of getting into the market from the standpoint of the cost of advertising would be much less than it is because there is no establishment of any quality standards; that an enormous and wasteful amount of money is poured into the market every year to create fictitious health attributes in tooth paste; that if the Government will step in and say here is a tooth paste which meets minimum or high-grade standards for health, the amount of money which tooth-paste makers could then spend on advertising wouldn't be nearly as much and that then the appeal of low price will enter very materially into the picture and give a new small competitor who can produce cheaply a chance.

The CHAIRMAN. You make a very much better story than has been told here yet.

However, we don't want to conduct a prolonged argument among the members of the committee. Do any members of the committee desire to ask any questions of the witness to elicit information?

Mr. HINRICH. I still have curiosity. You have been speaking about getting into the national market, which presupposes, I should think, a rather substantial expansion of your total volume of business. Is the manufacture of tooth paste a business which is susceptible to rapidly decreasing manufacturing costs? Suppose you are now engaged in manufacturing tooth paste; is that correct?

Mr. EPHRAIM. Yes.

Mr. HINRICHS. Suppose you were to double the volume you now have. Would your manufacturing costs up to the shipping room be substantially lower than they are at the present time?

Mr. EPHRAIM. The larger the production, the lower the costs would be up to a certain point, I suppose.

Mr. HINRICHS. Up to what point?

Mr. EPHRAIM. It would be difficult to say, but, to answer your direct question, if my production were doubled my costs would be lower.

Mr. HINRICHS. I have no idea what your production is, but it is not now large enough to supply even a large part of the New York market, I take it?

Mr. EPHRAIM. It is relatively small; yes.

Mr. HINRICHS. But do you need a national market? Do you reach a point rather early in that business where you run into substantially stable costs of manufacturing?

Mr. EPHRAIM. Yes; I think you would.

Mr. HINRICHS. And the decrease in costs from that point on is a decrease, is a spreading of the overhead of the selling cost; is that correct; that is, to get into the national market is going to cost you a certain number of million dollars?

Mr. EPHRAIM. Yes.

Mr. HINRICHS. And it will cost you a million dollars, whether you are in the national market on a large scale or on a small scale, really, and an increase in your volume from the point of view—from being a moderate-size business to a large-size business is merely a way of decreasing the overhead cost on selling; is that a correct picture of your business?

Mr. EPHRAIM. I am sorry—if you will just state that again.

Mr. HINRICHS. I am trying to see where the advantage to the consumer lies in having a service to a national market. Obviously you want to expend the size of your business to a point where you are achieving low manufacturing costs—low cost to the consumer?

Mr. EPHRAIM. Well, if you are asking me, we will say it costs so much per unit to produce a thousand gross of toothpaste within a certain period of time. You are asking me if I were to double that production, we will say, whether my costs would be lower?

Mr. HINRICHS. Yes.

Mr. EPHRAIM. There would be a point beyond which the dropping off wouldn't be very great, up to a certain point it would be considerable, but beyond that—in other words, I might buy 10,000 tubes or 10,000 gross of the empty tubes; that is a separate business in itself, but saving between 10,000 and 20,000 would be very little, whereas the saving between 1,000 and 10,000 might be substantial.

Mr. HINRICHS. So that from that point on if you are manufacturing 10,000 gross in that period of time, any growth to 100,000 gross tubes would be reflected in selling economies and not in manufacturing economies?

Mr. EPHRAIM. Very likely; yes.

Mr. HINRICHS. Would there even be very large economies in selling if you are selling against accepted standard grades; putting the question the other way round, if you were bidding on a contract for government or mail-order house that was going to either use it itself or sell under its own brand, would you be able to quote a substantially lower price on the equivalent of 100,000 gross as against 10,000 gross?

Mr. EPHRAIM. If you reach those figures there might be a saving. I can't tell you offhand just where the point would come in; the point where the savings would be likely to stop, but beyond a certain point—as you say up to a certain point—my savings would be in the manufacturing by having a larger production; beyond that point it might be in the selling.

Mr. HINRICHs. I sympathize with your desire as an individual to have a national market, but as one interested in consumers it isn't necessarily imperative that you as an individual should serve a national market. Have you been able to establish a business which will service a local market? I was going to ask you if you were going out in the near future, but can you establish yourself, have you been able to establish yourself, in that local market so that you are manufacturing and distributing to consumers economically within that limited area?

Mr. EPHRAIM. Well, my business as it is today is not a local business; it is done with individuals in various parts of the country. As a matter of fact, it is essentially a mail-order business; it is not a local business, and it has been severely limited because there has been no way of reaching people. In other words, if I came into the city of Washington I couldn't do a local business without really advertising.

The CHAIRMAN. Any other questions? Thank you very much, Mr. Ephraim.

(The witness, Mr. Ephraim, was excused.)

You have two more witnesses? You will call them tomorrow morning? The committee will stand in recess until 10:30 tomorrow morning and let the Chair express the hope that the members will assemble on time.

(Whereupon at 4:50 p. m. an adjournment was taken until Friday, May 12, 1939, at 10:30 a. m.)

INVESTIGATION OF CONCENTRATION OF ECONOMIC POWER

FRIDAY, MAY 12, 1939

UNITED STATES SENATE,
TEMPORARY NATIONAL ECONOMIC COMMITTEE,
Washington, D. C.

The committee met at 10:48 a. m., pursuant to adjournment on Thursday, May 11, 1939, in the Caucus Room, Senate Office Building, Senator Joseph C. O'Mahoney presiding.

Present: Senator O'Mahoney, chairman; Representatives Reece and Williams; Messrs. O'Connell, Lubin, Henderson; and Lowell J. Chawner, Chief of Division of Economic Research, Bureau of Foreign and Domestic Commerce, alternate for Mr. Patterson.

Present also: Messrs. D. E. Montgomery, Consumers' Counsel, Agricultural Adjustment Administration; and Willis J. Ballinger, Federal Trade Commission.

The CHAIRMAN. The committee will please come to order.

A few days ago, during the presentation of the hearings on beryllium by the Department of Justice, when the witness, Dr. F. H. Hirschland, was on the stand, I asked him for some information in respect to the capital structure of certain subsidiary corporations of the Metal & Thermit Corporation, of which he is an officer. That report has now been received and it is here presented for the record.

(The report referred to was marked "Exhibit No. 538" and appears in appendix, Hearings, Part V, p. 2298.)

The CHAIRMAN. Will you call your first witness?

Mr. MONTGOMERY. Mr. Walker.

The CHAIRMAN. Do you solemnly swear the testimony you are about to give in these proceedings shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. WALKER. I do.

TESTIMONY OF L. R. WALKER, SUPERVISOR OF BUILDING MATERIALS DEPARTMENT, SEARS, ROEBUCK & CO., CHICAGO, ILL.

Mr. MONTGOMERY. Will you give your name, please.

Mr. WALKER. L. R. Walker.

Mr. MONTGOMERY. Address?

Mr. WALKER. Sears, Roebuck & Co., Chicago, Ill.

Mr. MONTGOMERY. What is your position with the company, Mr. Walker.

Mr. WALKER. I am a supervisor.

Mr. MONTGOMERY. Of what division?

Mr. WALKER. Having charge of the building material end of our business.

Mr. MONTGOMERY. Now, Mr. Walker, before you go into your testimony there is a point I want to make. I understand your testimony is going to involve at one point, at least, a criticism of certain kinds of advertising on the part of your competitors that you have encountered. Is that correct?

Mr. WALKER. Yes, sir.

Mr. MONTGOMERY. You are going to offer that testimony?

Mr. WALKER. Yes, sir.

Mr. MONTGOMERY. I want you to state for the record whether or not, when you offer that specific criticism, you are launching an attack on advertising.

Mr. WALKER. I can hardly do that. Advertising has really built our business. We are the largest newspaper advertisers in the country, in addition to spending \$8,000,000 a year on catalogs, and we feel advertising has made us.

Mr. MONTGOMERY. And you think it would be a fair statement that I have not brought you here to make an attack upon advertising?

Mr. WALKER. I hope not, because I would not make a very good witness.

NEED FOR STANDARD RATINGS IN MARKETING HOUSEHOLD EQUIPMENT

Mr. MONTGOMERY. Now, Mr. Walker, tell us first about the plumbing and heating part of your work. I don't want you to go into a general discussion of the work. I think you can state first of all what the plumbing and heating equipment means in the cost of home building.

Mr. WALKER. In a new home the plumbing and heating part of the home is about 16 percent of the cost of a home. In modernizing it runs from \$250 to \$1,500 per job, and it is one of the few mechanical parts of a home. It is something that has to perform and function, consequently it is quite necessary that it should have a long life and be functioning right.

Mr. MONTGOMERY. Well now, what has been the development of the art in this plumbing and heating industry over recent years?

Mr. WALKER. Well, since 1927 the industry has been very, very badly depressed. It got down to about 15 percent of normal during the thirties, consequently there has been very little money in the industry to develop improved methods and improved products. But in other industries there has been quite a lot of technological development that could be used in the plumbing industry if manufacturers had the money to spend. A few manufacturers have spent enough money to improve their product but the majority have not because they couldn't afford it.

Mr. MONTGOMERY. Can you give some particular illustration of how improvements have been made in the development of some of this equipment?

Mr. WALKER. Yes. In the case of furnaces, because of the art in the casting and the molding of furnaces the method was quite limited for many years and everybody made the same type of product. Because of the similarity in the product, a measurement of the width of the fire pot of a furnace was used in rating the capacity of the furnace. That went on for many years.

MR. MONTGOMERY. Let me get this clear. You mean then that the width of the firepot became through usage in the trade a sort of standard by which a furnace was rated?

MR. WALKER. Yes, sir.

MR. MONTGOMERY. And by which it was sold to consumers?

MR. WALKER. Yes, sir; and the measurement used was the widest point in the fire pot. Now, because the automobile industry showed so much improvement in casting and molding, it is possible today to make a furnace or a cast-iron product with a much thinner wall, and a much straighter side than in the former days. Formerly it was necessary to have quite a slant on it in order to drag it out of the sand. We call this the drag in molding. When the automobile industry came in they learned how to get straighter sides, how to get thinner walls, and how to do a number of things we never knew before. Consequently today we can make a furnace that has much more capacity with the same size fire pot that we had before.

MR. MONTGOMERY. Under present methods the fire pot may have a larger or smaller capacity but still have the same measure?

MR. WALKER. Yes.

MR. MONTGOMERY. You can illustrate that?

MR. WALKER. Yes; the chart.

(The chart referred to was marked "Exhibit No. 539" and appears on p. 3416.)

MR. WALKER. As an example, if you will visualize this furnace, here, the fire pot—

MR. MONTGOMERY (interposing). Mr. Walker, in talking about the chart, if you will indicate the parts of the chart you are pointing at it will help the final record, because that will be reproduced in the record.

MR. WALKER. Yes. If you visualize the furnace, this is the fire pot here.

MR. MONTGOMERY. Where is it on the chart?

MR. WALKER. Right here; and here is the same thing here.

THE CHAIRMAN. The point, Mr. Witness, is that saying "here" or "there" in the record means nothing, so if you will just define the part of the chart to which you are referring, then the reader will know what you are indicating to us by your gestures.

MR. MONTGOMERY. Each part of your chart has a little label on it, so will you just refer to that?

MR. WALKER. You mean this? Do I define that by saying it is the fire pot?

MR. MONTGOMERY. The upper picture, or something like that.

MR. WALKER. In the upper picture here is the fire pot. Now, formerly it was necessary to have a slant similar to this in order to drag out of the sand.

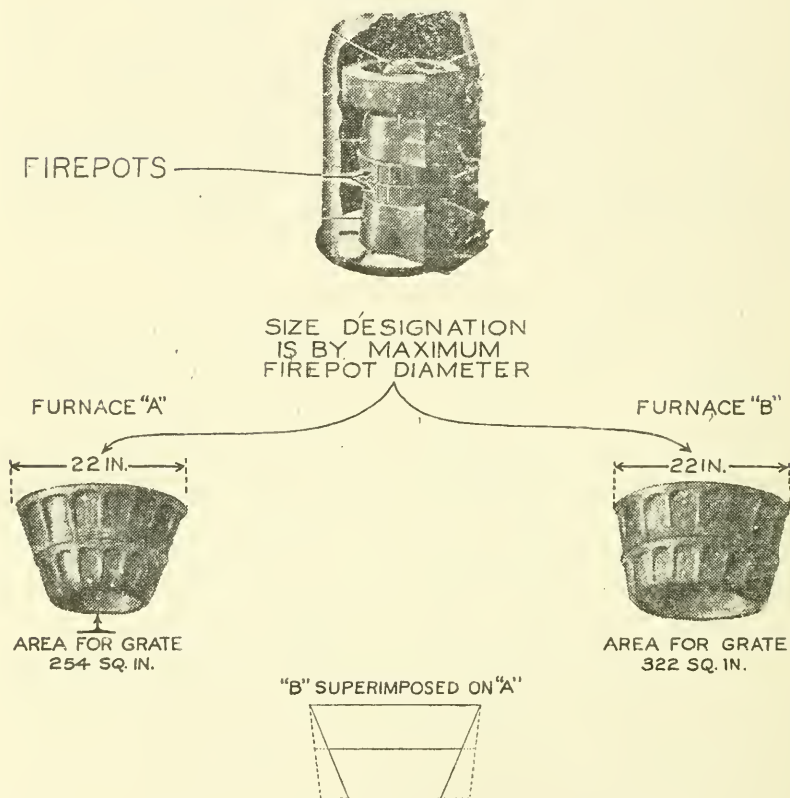
MR. MONTGOMERY. Similar to the furnace A design.

MR. WALKER. Yes; shown on the right of the chart. In the last few years we have been able to straighten that out as you see it on the left side of this chart.

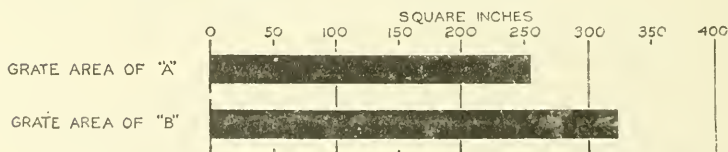
MR. MONTGOMERY. Shown as furnace B.

MR. WALKER. Shown as furnace B. Now, consequently, the measurement as the consumer knows it today, an 18- or 20- or 22-inch furnace, is a measurement shown from here to here in A. But by

EXHIBIT No. 539

WARM AIR GRAVITY FURNACE OUTPUT AGAINST
ACCEPTED SIZE DESIGNATION

COMPARISON OF GRATE AREAS



straightening this out as we have it in this B furnace here you have a very much larger grate area here than you had formerly. Consequently, this measurement no longer is the proper measurement for a furnace.

You can take the same firebox as shown in A and B and by straightening this out you can get 25 percent more heat out of the furnace; in other words, the cubic area of the box will go from 254 to about 322 by straightening out those sides.

Mr. MONTGOMERY. That is without any change in the dimensions of the fire pot?

Mr. WALKER. But still that furnace is sold as an 18-, 20-, or 22-inch furnace based on the measurement of the top of the firebox.

Mr. MONTGOMERY. Now, Mr. Walker, in your opinion, what kind of standard could be arrive at for a furnace?

Mr. WALKER. There is a standard that has been recommended, but it was not accepted by the industry because, in our own case, in order to improve this product we had to spend \$205,000, and because of the depressed condition of the industry many companies don't feel they want to spend that amount of money. Consequently, they oppose any rating, except the ratings that have been standard for years. But there is a rating that was worked out by the University of Illinois which, if used and made mandatory, would protect the consumer. It is based on the amount of fuel you put into a furnace minus the stack temperature, as the heat goes out, leaving the balance of the heat that goes into your home. That is the way to rate a furnace.

Mr. MONTGOMERY. You say that such a standard as that would protect the consumer, meaning that the consumer is not protected under the standards now?

Mr. WALKER. He has no way in the world to know what he is getting. If the furnace is a certain width through the firepot, as shown here, it would be as much as 25 percent different in heat delivery of the product for the same size measurement.

Mr. MONTGOMERY. What is the effect of the absence of a valid standard in this industry upon you as a maker and seller of furnaces?

Mr. WALKER. In order to meet the situation we have two furnaces, one of which we made in the twenties. We are showing two furnaces, one of the 22 delivering 254, the other 322. But it is necessary for us to keep both products and offer both products to anyone who wants the difference.

Mr. MONTGOMERY. And the old product that you carry you are able to sell at a lower price?

Mr. WALKER. Yes.

Mr. MONTGOMERY. You carry that to meet competition of those who sell the old type?

Mr. WALKER. Yes.

Mr. MONTGOMERY. Your conclusions, then, are that there ought to be a standard by which a furnace capacity or furnace performance could be rated, for both your interest and the interest of the consumer?

Mr. WALKER. Yes.

Mr. MONTGOMERY. By whom should such a standard be worked out? Have you any opinions on that?

Mr. WALKER. I have always felt there ought to be a standard that had some teeth in it. We have asked the Bureau of Standards to do this thing, or some agency that has authority so that the Federal Trade Commission, in case it was not respected, could take some action on it.

The CHAIRMAN. We have read a good deal in the public press and elsewhere about Government interference with business. I think from your statement, so far as you are concerned you are not particularly alarmed about that.

Mr. WALKER. No, sir; not at all.

The CHAIRMAN. In other words, government can do a great deal to help business by protecting the public?

Mr. WALKER. It has been our feeling that they not only can but they have. The chairman of the board and our executive vice president, General Wood and Mr. Nelson, spend much of their time in Washington, as you probably know, and we believe they can do some good. They have done a great deal of good for the public.

Mr. MONTGOMERY. You had a similar illustration in the case of boilers. I wish you would describe that to us. I think probably the easiest way would be to introduce your chart on that; perhaps just describe the situation right from the chart.

(The chart referred to was marked "Exhibit No. 540" and appears on p. 3419.)

Mr. WALKER. There again you have an industry, the foundry industry, that has been very much depressed through the steel companies trying to take its market away from it. There was no rating whatever on boilers up to the early twenties, consequently an association of contractors wrote to 17 boiler manufacturers and secured the size of their boilers and their claimed ratings, and they cubed the boiler and divided it by 17 and took the claimed ratings and divided them by 17 and said that was the average and rated boilers on that basis.

Mr. MONTGOMERY. I am not sure that is quite clear.

Mr. WALKER. I am going to show that. In other words, they took the width of a boiler, 23 inches across here if it happened to be that size, then took the height, which happened to be 41 inches in this illustration, and the length of 20 inches. They cubed these figures and in this boiler it figures out to be 18,860. Then they added the cubed results for each of the 17 manufacturers and divided this total by 17. They then said that on that size boiler they would take their claimed ratings and divide that by 17 and that was the rating of the boiler. That was the standard, which means nothing whatever. You come in the market today with a new boiler and if you raise this combustion chamber some, which would give you greater heat, or if you have a through travel and it would come through twice instead of once, you get no credit.

Mr. MONTGOMERY. In the rating—it would still rate the same.

Mr. WALKER. Yes; it is still rated on the original average cube of 17 manufacturers in about 1921 or 1922. With the technological development in the United States of cast iron we are today able to produce a boiler that has 25 to 35 percent greater capacity than the boilers of the twenties, but so far as the public is concerned we have one rating and it is set up by a contractors' association. There

EXHIBIT No. 540

EXAMPLE: 5 SECTION BOILER

$$\frac{\text{NEW BLR. CUBAGE}}{\text{AVERAGE BLR. CUBAGE}} = \frac{\text{NEW BLR. RATING}}{\text{AVERAGE BLR. RATING}}$$

Industry 5 section average cubage - 19,094 cu. in.

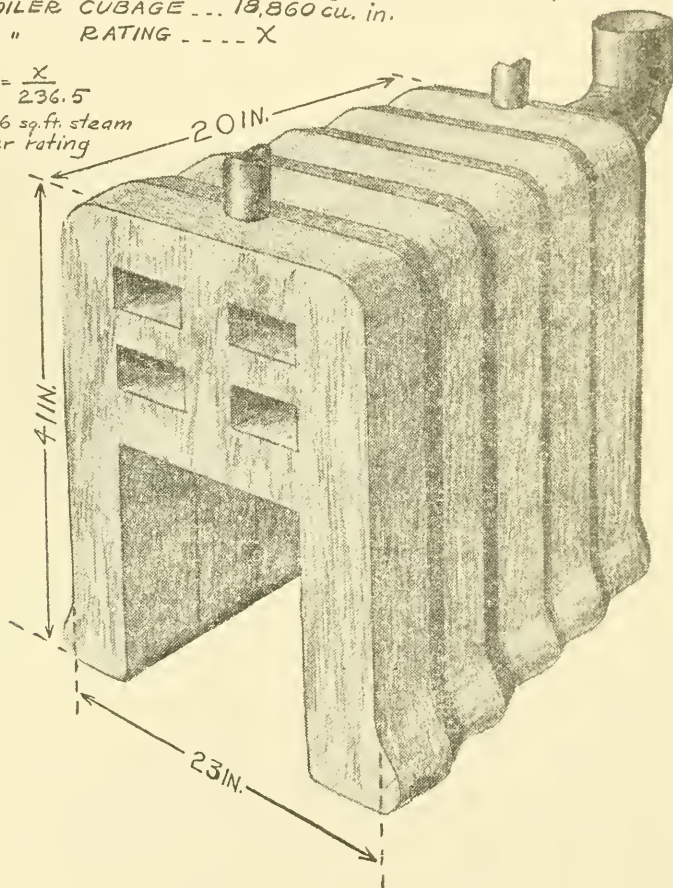
" " " " rating claim - 236.5 sq. ft. steam

NEW BOILER CUBAGE ... 18,860 cu. in.

" " RATING - - - X

$$\frac{18,860}{19,094} = \frac{X}{236.5}$$

X = 235.86 sq. ft. steam
new boiler rating



is no manufacturers' association rating at all. As a result of this condition, several of the better manufacturers built up a rating as it should be, but it has been opposed by numerous other manufacturers who don't want to spend money, and we have never been able to get it through. It certainly gives no knowledge whatever of the form of the boiler based on any industry rating.

The CHAIRMAN. What was the obstacle about your getting that through?

Mr. WALKER. Well, it was submitted to the Association of Manufacturers, something more than a year ago, and the majority of them refused to approve it.

The CHAIRMAN. What association of manufacturers?

Mr. WALKER. Association of Boiler Manufacturers.

The CHAIRMAN. Are you a member of that?

Mr. WALKER. Our company is; we have two companies which are members.

The CHAIRMAN. You have two companies which are members?

Mr. WALKER. Yes.

The CHAIRMAN. What are those two companies?

Mr. WALKER. The Rundle Manufacturing Co. and Hart & Crouse.

The CHAIRMAN. Are they subsidiaries of Sears Roebuck?

Mr. WALKER. Well, yes; one is a wholly owned company and the other is a partially owned.

The CHAIRMAN. And they are engaged—

Mr. WALKER (interposing). In the manufacture of boilers.

The CHAIRMAN. Was the problem debated at length?

Mr. WALKER. No. It was submitted as a recommendation to all manufacturers in writing and was discussed. I wouldn't say it was debated at length; it was discussed.

The CHAIRMAN. What objections were given or made to the suggestion?

Mr. WALKER. I couldn't tell you. I didn't attend the meetings. I have, however, with me, the recommendations and so forth which were sent out.

The CHAIRMAN. I was interested to know what, if any, argument was advanced against it.

Mr. WALKER. I don't know; I can't imagine any argument against it.

The CHAIRMAN. Well, it would be difficult, but I wondered what was said.

Representative WILLIAMS. Would there be any financial consideration?

Mr. WALKER. Oh, yes. What would happen, it would force every manufacturer to modernize his product, because if you had a standard rating that was based on the heat output of a boiler and you were manufacturing a boiler that didn't deliver that heat you couldn't sell it, you would have to modernize your product, and when you must make molds it runs into money very quickly.

Mr. MONTGOMERY. On this same question, with respect to trying to get standards for fire pots, were you engaged in any effort there to try to get the industry to work out a standard?

Mr. WALKER. No. There is a standard now, and, as I say, it is very good, but there is no way to force all manufacturers to respect it. As an example, when three manufacturers came out with this

boiler with the straighter fire pot, immediately the ratings were raised. The other distributors and manufacturers just arbitrarily raised their ratings, although they didn't change their product, on the theory that if you put more coal in it, more often, you can get more heat out of it. The University of Illinois test is based on putting fuel in the boiler every 8 hours. If you put fuel in every 4 hours you will get more heat out of the boiler, but you waste a great deal of your fuel.

Mr. MONTGOMERY. In other words the other manufacturers used what purported to be a standard, but it wasn't a correct standard.

Mr. WALKER. It wasn't a standard that should have been used.

Mr. MONTGOMERY. You mentioned the consumer. When I build a house the architect probably orders the boiler to go into my house, doesn't he?

Mr. WALKER. Yes.

Mr. MONTGOMERY. How does he select the capacity of the boiler?

Mr. WALKER. On the rating of the association. Most architects use this rating set up by this contractors' association.

Mr. MONTGOMERY. Do you know, if he orders a boiler with a certain rating, which I suppose he has figured the house needs to get proper heat, by how much the boiler he actually buys may vary from that rating? How much difference is there above and below the actual capacity of the boilers that meet a certain rating?

Mr. WALKER. You can take the same amount of cast iron and the same amount of cost and product, and vary the performance by 35 percent at least.

Mr. MONTGOMERY. And still come within the same rating as the rating used now?

Mr. WALKER. Yes.

Mr. MONTGOMERY. So that the consumer may get a substantially inferior product, or get a product whose performance is substantially inferior to that which he expects and needs in his house?

Mr. WALKER. And in that connection the F. H. A. today is having a considerable amount of trouble on their loans. A good number of the heating plants do not perform, are not performing, and they are having considerable trouble with the banks over the fact that they are not getting what they thought they were getting in heating plants.

Mr. MONTGOMERY. Will you explain further what some of the difficulties are when you get a furnace installed in your house, or a boiler installed in your house, that is materially under capacity?

Mr. WALKER. Well, first, when it is cold you have to fire quite often, and that is a matter of labor. Next, by firing it often you soon burn it out. You force the boiler or furnace too hard so you eventually burn it out, while if you have one that is properly sized, if it isn't forced, it should last a lifetime.

Mr. MONTGOMERY. A boiler or furnace of proper capacity would last a lifetime?

Mr. WALKER. Yes.

Mr. MONTGOMERY. How rapidly, in your experience, can a furnace be burned out if it is being driven over capacity?

Mr. WALKER. Well, that is hard to say. I would say if you kept a furnace at a red heat you could burn it out in a year or so, if you just forced it that hard. That isn't normal, and people don't nor-

mally do that. In a number of instances I know of boilers that have burned out in 4 or 5 years.

Mr. MONTGOMERY. Four or five years instead of a lifetime?

Mr. WALKER. Yes.

Mr. MONTGOMERY. That is a rough measure of the approximate possible cost that may be incurred by a consumer due to the fact that there is no standard by which the consumer can make this purchase?

Mr. WALKER. Yes.

Dr. LUBIN. May I ask a question? Is it fair to conclude, from what you said, that in buying a furnace today the standards that exist in the industry are absolutely of very little value to the consumer in determining what he is getting, in terms of efficiency?

Mr. WALKER. Yes. I would say this, that the standard that the consumer has been taught to use is no measure whatever of the rating of the product he gets. In other words, because the industry for many years all made a similar product they used one measure. Now, as we have learned to improve that product, they are still using that same measure and it doesn't at all typify the output of that product. More than half of the industry is still making the old product and opposes anything that changes that standard.

The CHAIRMAN. To what extent do retailers know of the improvements which have been effected?

Mr. WALKER. I would say they know it 100 percent. The retailers know it.

The CHAIRMAN. Well, the retailer, then, could advise the consumer.

Mr. WALKER. Yes.

The CHAIRMAN. Is there any advantage to the retailer in taking the substandard, the submodern standard, product rather than the modern product?

Mr. WALKER. He can buy it for less money.

The CHAIRMAN. A greater profit may be made on the substandard unit than on the modern one?

Mr. WALKER. Either a greater profit or he can sell it for less money.

The CHAIRMAN. Have you found that difficulty?

Mr. WALKER. We have both products in all our stores. We sell one of them for about 20 percent less than the other. Its other is a substandard product and it is 20 percent less than our better product. We have two brands, the Indestructo and the Hercules, the Indestructo being the better product and the Hercules the standard product sold in industry, and there is about 20 percent difference in selling price.

The CHAIRMAN. How about the ordinary retailer. Does he carry two brands?

Mr. WALKER. In some cases. In some cases he does not.

The CHAIRMAN. So that actually the protection of the consumer might to some extent depend, also, upon the degree to which the retailer actually advises him of the value of the product?

Mr. WALKER. I would say 100 percent would depend upon that.

Mr. MONTGOMERY. In selling your better product, you are in competition, of course, with a great many retailers, aren't you?

Mr. WALKER. Yes.

Mr. MONTGOMERY. Do you find it to be a fact that retailers are selling the inferior product to the consumers?

Mr. WALKER. Yes.

Mr. MONTGOMERY. You are trying to meet that competition?

Mr. WALKER. Yes, sir.

Mr. MONTGOMERY. And it is a fact then, isn't it, that retailers are selling to consumers boilers and furnaces that are under capacity?

Mr. WALKER. Yes, sir.

Mr. MONTGOMERY. You can state that of your own knowledge, that that actually happens?

Mr. WALKER. Yes.

For instance, we know of a number of cases where, in rating a boiler for its output, or a furnace, where it has been rated for 10 years at a certain rating, as these new products have come out they arbitrarily raised the rating without changing the boiler at all. The Federal Trade Commission has no action against them because they defend it by saying:

All you have to do is put more coal in it and you will get more heat out of it.

Dr. LUBIN. Also, many retailers have no alternative. If a retailer is only permitted to carry a given brand and if the manufacturer only makes one type of furnace, namely, the substandard, the retailer has no alternative but to sell that standard.

Mr. WALKER. Fortunately a retailer can buy the better product.

Dr. LUBIN. Do all manufacturers make the better products?

Mr. WALKER. No; but the manufacturers that do it will sell to anybody. There are no exclusive agencies. He can get it.

Mr. MONTGOMERY. If there are some retailers who are, either because of profit or because of being able to quote a lower price, selling to consumers a product that is below the standard they actually need, how can the consumer look for protection, then, to the retailer?

Mr. WALKER. Well, the only thing he can do is deal with a reliable house, I would say. I don't know of any other way. He has no other measure.

Mr. MONTGOMERY. Of course, an average consumer buys a furnace or boiler only about once in a lifetime, if that often, so he is not in a position to shop around from day to day. If he finds he picked a retailer who sold him a poor product, he can't remedy the situation tomorrow.

Mr. WALKER. And it is such an important part of a home that certainly there ought to be some standard that we all could respect.

Mr. MONTGOMERY. You had something to tell us on the question of the alloys used in furnaces. Will you develop that story?

Mr. WALKER. In the steel industry they have developed alloys to be used in steel, that are used in steel to increase the heat resistance of the steel, and several years ago our research and development department questioned why that couldn't be done in cast iron, so at considerable expense and much research we developed the use of alloys with cast iron that gave us a heat resistance to cast iron, and we secured a patent on it, under the name of Indestructo metal. It changes the consistency of the cast iron by making it of very much finer grain and very much denser, and also increases the heat resistance of the iron.

As soon as this was put on the market as Indestructo metal it was accepted very rapidly, and because it was patented it was an exclusive product of Sears, Roebuck & Co.

In order to meet the situation a number of distributors and manufacturers coined names in describing their iron. They didn't claim it was alloy or anything of that sort, but inferred it, and today you will find a number of names like Gymco Iron, or Duco Iron, or something of that sort, that is nothing in the world but cast iron and the consumer is led to believe that he is getting something different from cast iron, and I feel that that is, by inference, a misrepresentation.

MR. MONTGOMERY. How much more wear can you get out of a furnace made of your iron than out of one made of cast iron under the same operating conditions?

MR. WALKER. Well, we guarantee any product made with Indestructo metal for 20 years, and it is the only guaranty given that I know of that is more than a year.

MR. MONTGOMERY. How did you establish the fact that that is a superior product?

MR. WALKER. After we developed it we turned it over to the Pittsburgh Testing Laboratories to put it through quite severe tests over a period of months, and through their reports it developed that we had something that would last at least 20 years.

MR. MONTGOMERY. You said that then some of your competitors, by using certain names, indicated that they had an alloy too, but they had only cast iron. How did you establish the fact that they had only cast iron?

MR. WALKER. First, several of them were buying the same product we were buying, from the same warehouse. In addition to that we bought a number of their products and put them through our laboratories and analyzed them, and found out it was plain cast iron.

MR. MONTGOMERY. I wish you would describe in some detail some of the claims made by other competitors for these newly christened cast-iron furnaces.

MR. WALKER. Well, the claim is entirely by inference. They will say, "This furnace is made from Duco iron"—I don't like to use trade names—or John Doe iron, or some descriptive coined word.

MR. MONTGOMERY. I was wondering if they went into scientific discussions. That is quite a frequent way to convince the consumer that the product is very excellent.

MR. WALKER. No; they only said it was an iron made from an alloy.

The CHAIRMAN. But actually it was not made from an alloy?

MR. WALKER. No.

Representative REECE. Has that practice been called to the attention of the Federal Trade Commission, or do you think the Federal Trade Commission would have authority to deal with that as an unfair trade practice?

MR. WALKER. I think in that case they would, where a claim of alloy was used. I don't think they would, for instance, if I put out a furnace and said it was made of Walker iron. I don't think there is any basis for complaint there.

Representative REECE. I am not so sure that it might not have, especially under section V as amended by the Wheeler-Lea Act. It gives a great deal of authority to prevent unfair trade practices. It may not have.

Mr. WALKER. We submitted it to the Consumers' Counsel Division, to Mr. Montgomery, but we didn't feel that, except by inference, there was anything to attack.

The CHAIRMAN. You didn't submit it to the Federal Trade Commission?

Mr. WALKER. No; we did submit it to the Bureau of Standards, and asked whether they could set a standard, and they said they could not.

Mr. MONTGOMERY. Did they say why they couldn't?

Mr. WALKER. No; they said they had no basis on which they could do it.

Mr. MONTGOMERY. You don't know whether they couldn't do it under the law?

Mr. WALKER. I think Mr. Mumma can answer that.

Mr. MONTGOMERY. This is Mr. George E. Mumma, manager, heating department, of Sears, Roebuck & Co.

The CHAIRMAN. Do you solemnly swear that the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MUMMA. I do.

TESTIMONY OF GEORGE E. MUMMA, MANAGER, HEATING DEPARTMENT, SEARS, ROEBUCK & CO., CHICAGO, ILL.

Mr. MUMMA. I wrote in October of 1938 to the Bureau of Standards describing a situation in the rating of heating plants, and asked if they would either establish as a standard the recognized method of rating as developed by the University of Illinois, or would they set up their own standard, or if neither could be the case, could we help in the setting up of a standard. I received a reply from Mr. Briggs, Director of the Bureau, stating that no work had been done and that they apparently could not do any work—Yours truly.¹

There was no reason given why a standard could not be set up. We did not take up this particular case of the alloy directly with the Bureau of Standards, although we did describe the situation competitively to the Agricultural Division.

Dr. LUBIN. May I ask, Mr. Walker, whether your firm makes such requests to the Bureau of Standards at different times? I mean, have you on other occasions asked the Bureau of Standards to set up a standard or adopt one?

Mr. WALKER. That is the only case I have had any contact with.

The CHAIRMAN. Of course, the answer to all of these questions is to be found in the law. It would be a simple matter to check up the law. Have you done that, Mr. Montgomery?

Mr. MONTGOMERY. No.

The CHAIRMAN. These witnesses obviously don't know the powers and duties of the Bureau of Standards.

Mr. WALKER. On this trip we are trying to ascertain whether we could appropriate enough money for them to make the test. We

¹ Under date of May 25, 1939, the Director of the National Bureau of Standards submitted a memo re Mr. Mumma's statement which was entered in the record as "Exhibit No. 639" during hearings held May 20, 1939, and is included in the appendix to this Part on p. 3475.

would be willing to finance the things because it really means a lot to the consumer and naturally we are interested.

Dr. LUBIN. Do you know of any cases where the Bureau of Standards has set up standards that are used by industry? Over the radio one hears, for instance, that a certain gasoline meets the Bureau of Standards' test, or standard. Is that common in other types of products?

Mr. WALKER. I can't name the products, but I am quite sure that they do that because I have seen it referred to.

Mr. MONTGOMERY. I think if the committee wants to get this question cleared up, there is a gentleman here from the Bureau of Standards. You see, these gentlemen don't know from the reply they got from the Bureau of Standards whether it is a question of law or a question of current appropriations or a question of equipment, or what not.

Dr. LUBIN. After Mr. Walker is finished, I should like awfully much if we can get a picture of what the Bureau of Standards does do and what are the potentialities in that field.

The CHAIRMAN. It would be a simple matter, just as I suggested yesterday to Mr. Montgomery, to have the statement made on behalf of the Marketing Division of the Department of Agriculture on the manner in which the Standard Container Act has been enforced and what the results have been under that.¹

Mr. MONTGOMERY. Yes; for fruits and vegetables.

The CHAIRMAN. Obviously witnesses such as these before us today are not competent to testify on this question.

Mr. MONTGOMERY. There is a gentleman right here from the Bureau of Standards who, when they are through, can answer your questions on that point if he is willing to testify.

There is one other point you wanted to bring up with respect to the pottery industry, toilet bowls, and how they are marketed.

Mr. WALKER. The pottery industry makes lavatories and toilets and in the process the principal defect that develops through the kiln is known as crazing. Crazing describes a condition where the outside finish, the glaze, cracks in small hairlike cracks that are hardly visible to the naked eye. Unless you inspect these under a microscope you don't see them. The better manufacturers in the United States don't sell any seconds. A crazed piece of pottery is called a second. They do not sell any seconds in the United States, in America, but a number of less ethical concerns do, and the consumer today is buying these seconds, thinking he is buying firsts. The result is that in a very short time, in the course of a year or two, the water seeps through these cracks and causes yellow stains and becomes most unsightly and unsanitary. The only mark that is put on the back, a distinguishing mark between a first and a second, are two little red dots on the back of a bowl at a point that wouldn't normally be seen, and that was established during the N. R. A.'s days, and consequently there is no way in the world for a consumer to tell when buying a piece of pottery whether he is getting a first or second, and he is buying today a lot of seconds.

Mr. MONTGOMERY. That is, the consumer wouldn't know?

Mr. WALKER. The consumer couldn't tell anything about it.

¹ Subsequently submitted and entered in the record during hearings held June 7, 1939, and included in appendix to this Part on p. 3487.

Mr. MONTGOMERY. Do you suppose the retailer would know?

Mr. WALKER. Yes; certainly.

Mr. MONTGOMERY. Yet you find from your experience that consumers are buying those seconds and not knowing it.

Mr. WALKER. Yes, yes; there again I feel that there should be some protection on these major projects, some protection for the consumer on these major products that he buys once or twice in a lifetime.

Mr. MONTGOMERY. Some standard language by which a manufacturer or distributor like yourself can talk with consumers about the products that one is selling and the other is buying.

Mr. WALKER. Yes.

Mr. MONTGOMERY. I wanted to ask this one further question, Mr. Walker. In examining merchandising to the consumer, it has been pointed out often that consumers buy generally in two different ways. Some consumers buy by brand; that is, they get a certain brand that they want to buy and they stay with it and buy that. Other consumers, however, perhaps those who want to save money, will, as I say, buy by price. They go around shopping and try to get the cheapest article they can get. Now, with respect to the sale of goods in that price market, that highly competitive market, has it been your experience that the sale of goods is merely in terms of the price, in the absence of a standard defining the quality of the commodity that is commonly offered for sale?

Mr. WALKER. Yes; it tends to do this I would say: It tends to encourage some manufacturers to produce a substandard product. On the other hand, other manufacturers maintain their normal standards, and in the consumer goods you have an impulse buying; advertising influences much more than price, but in the heavier goods you will find that price is much more a factor than advertising. Consequently there is a tendency to, on the part of some manufacturers, produce the lowest-priced article they can. In other words, when you are spending a thousand dollars for something, you will do more shopping than if you buy a handkerchief or tie or tooth paste or something of that sort.

Mr. MONTGOMERY. Does that have the effect, for example, in your line to induce manufacturers to make a fire pot or a boiler that is below the rating in performance but still meets the alleged rating?

Mr. WALKER. What has happened in the industry, they are not producing one that is lower; they are just not improving the one they have, because it means quite a cost to do it.

Mr. MONTGOMERY. Are there any other questions?

The CHAIRMAN. Do any members of the committee desire to ask Mr. Walker any questions?

Mr. O'CONNELL. I should like to ask you just one question about what I understand to be one of the things that holds back the development, I take it, to modernize the product of a company that is producing what you refer to as a substandard product. It would involve a substantial cost to the manufacturer in modernizing his equipment, is that what you mean?

Mr. WALKER. Yes.

Mr. O'CONNELL. You spoke of spending \$250,000 in connection with the development of the better fire pot, I think.

Mr. WALKER. Yes.

Mr. O'CONNELL. That meant experimentation?

Mr. WALKER. Well, of that \$250,000 I think there was \$28,000 in engineering expense, and the rest of it in equipment and molds and flasks and that sort of thing.

Mr. O'CONNELL. So from the point of view of the manufacturers who are producing the substandard product, it really would present something of a financial problem to them, would it not?

Mr. WALKER. That is what it is; yes.

Mr. O'CONNELL. Because they would like to throw out a certain amount of equipment that they have and buy new equipment and spend money which in some cases they may not have.

Mr. WALKER. Yes; that is what is holding them back.

Mr. MONTGOMERY. I would like to ask one more question, and that calls for a rather broad opinion, but I think your experience will justify your expressing one if you care to. Do you think, Mr. Walker, that if the manufacturing industry, the distributors and the consumer were brought together, trading on a factual basis by means of standards which describe the goods, that would undermine the whole system of free enterprise as we know it in America today?

Mr. WALKER. Why, no; I don't think so. I feel the reverse. I think it would tend to make industry more successful and the consumer better satisfied.

Mr. MONTGOMERY. You think it is both feasible and practicable to move our distribution of products in that direction?

Mr. WALKER. Certainly.

Mr. MONTGOMERY. Thank you, Mr. Walker.

Mr. CHAWNER. May I ask a question of the witness? Mr. Walker, there is, I believe, an association known as the American Society for Testing Materials.

Mr. WALKER. Yes.

Mr. CHAWNER. That is a private association of engineers and manufacturers and others?

Mr. WALKER. Yes.

Mr. CHAWNER. Doesn't that association make standards for a number of products?

Mr. WALKER. Yes.

Mr. CHAWNER. Possibly not highly fabricated products such as the heating and ventilating equipment that you have mentioned. That association does make standards which are scientifically useful?

Mr. WALKER. Yes.

Mr. CHAWNER. The implication of your testimony is that in this particular case the Federal Government should do something about it; that the Federal Government should set these standards. Do you feel, to take for an example, in heating and ventilating that the appropriate association there is incompetent to do that?

Mr. WALKER. No, no. There are a number of associations with testing laboratories and the association you refer to is very competent. The University of Illinois in the furnace end is probably the most competent and they have set the standards, but the point I am making is there is no teeth in it so nobody has to respect them. I mean we could have any one of a dozen testing laboratories set a standard, but there is no way which you can say to the manufacturer, "If you sell this thing, you have to sell it based on this standard." He can make any standard he wants for his product.

The CHAIRMAN. Discussing this improved furnace of which you have spoken, is it more expensive to make than the other one?

Mr. WALKER. Slightly; yes, I would say.

The CHAIRMAN. Why?

Mr. WALKER. Well, first you have slightly more iron in it; second, the method of molding is more expensive and it takes a different type of equipment. The reason we have been able to do these things is because in making molds under high pressure—that is known to the trade as sand slingers—we force the sand into the mold under air pressure and make a very much tighter and more compact mold, and that, of course, costs more money than tapping it in with a stick.

The CHAIRMAN. The old firepot, as I understood you to describe it from the first chart,¹ was one that had a larger diameter at the top than at the bottom and the alteration that you put into effect was to make the bottom diameter more nearly equal to the top diameter.

Mr. WALKER. Yes.

The CHAIRMAN. So as to give the firepot a larger cubical content.

Mr. WALKER. Yes.

The CHAIRMAN. That necessarily, I suppose, required some sort of a remodeling of the devices by which the firebox is cast?

Mr. WALKER. Yes.

The CHAIRMAN. That, of course, would entail some expenditure in the remodeling of the machinery.

Mr. WALKER. Yes.

The CHAIRMAN. But after that has been done, is the manufacture of the new firebox materially more expensive than the manufacture of the old?

Mr. WALKER. It is today; eventually I hope we can get it down. You have to use equipment today that you didn't use in those days; in other words, when I say you have to have a very large compressor that forces this sand by compressed air and pounds it in, into the molds, as against in the former days we tapped it in with a stick. That is quite expensive machinery and also, the sand being very abrasive going in under high pressures, very quickly cuts up your molds, and things of that sort.

I am sure we will be able to overcome that in time by experience.

The CHAIRMAN. By how much is the new method of manufacture more expensive than the old?

Mr. WALKER. Mr. Chairman, when you speak of costs, so much depends upon volume. I mean on fixed costs of that sort. In our own case, for instance, in the Rundle Co., it costs them—I am speaking now of overhead and all—around 10 or 12 percent more to make the new product than it does the old.

The CHAIRMAN. What is the difference in the price between the two products which you sell?

Mr. WALKER. I would say it runs about 12 to 15 percent; in other words, the starting size, one of them sells for \$49 and the other sells for \$59; in the larger sizes the percentage is not so great.

The CHAIRMAN. So that the actual cost of manufacture of the new product is, between 10 and 12 percent more than the old?

Mr. WALKER. Yes.

¹ See "Exhibit No. 539," supra, p. 3416.

The CHAIRMAN. But the price to the consumer is from 12 to 15 percent greater than the old.

Mr. MULIMA. May I describe the situation further in answer to the gentleman's questions on standards? A year and a half ago the Boiler and Radiator Institute, which is an association of 15 manufacturers, set up an excellent testing code for residential boilers. They were all for it at that time. Then each of the 15 submitted his product for actual tests and under this test code there were five of them whose product did not show up any too well. In other words, their design was wrong. So those five men, when it came to approval of the code, voted against the code, so it was not adopted. In other words, there we have a selfish movement which you cannot get out of unless you have authority above a man's selfish interest.

Mr. MONTGOMERY. One more point I want to clear up. In testifying that the use of standards would be better, you don't mean at all that the number and variety of products that are manufactured should be rigidly standardized so there would be only one kind of thing available in each commodity?

Mr. WALKER. No; what I visualize is this: If we could say to the consumer, "This meets the United States Government standard"—I mean, based on the United States Government standard this furnace will deliver so and so, he would have confidence in it. If I say to him that the Pittsburgh Testing Laboratory says this is something or other, it doesn't mean so much.

Mr. MONTGOMERY. So what you want is a standard available by which the commodity can be described and then you want to be sure that the manufacturer when selling that commodity properly describes it according to that standard?

Mr. WALKER. Yes; I see no reason why these substandard furnaces can't be sold, but sold on the basis of what they will deliver, and if another man makes another product and it will deliver more—

Mr. MONTGOMERY. In other words, you don't want misrepresentation.

Mr. WALKER. That is all there is to it. But in this thing, Mr. Chairman, I want to say this: You can justify the delivery in these products of any claim you want to make, because it just depends on how much fuel you put into it. If you want half your heat up your chimney and the other half in your house, you can justify a delivery of 25 to 50 percent more than the furnace is designed to deliver.

Mr. MONTGOMERY. That is the way it is today in the absence of any standards for describing the product.

The CHAIRMAN. You sell today both substandard and the new standard furnace?

Mr. WALKER. About 85 percent of our sales are on the better furnace.

The CHAIRMAN. Good.

Mr. WALKER. But the point is, we have to carry the other one just for illustrative purposes, really.

The CHAIRMAN. You spoke a little while ago of desiring a standard with teeth in it. What did you mean by that?

Mr. WALKER. Well, if we had a standard so that the Federal Trade Commission could go to the manufacturer and say, "Here, you are misrepresenting this product based on the Government standard," or some standard set up, then you would have teeth in it. In other

words, if you would set up and say that the standard is an 8-hour firing period, based on that you would produce so much heat into a home, the stack temperature should not be over 600° or something of that sort; now on that basis this is the rating.

The CHAIRMAN. In other words, you believe that the condition which you have described is an unfair trade practice?

Mr. WALKER. Absolutely.

The CHAIRMAN. And that the Federal agency, preferably the Federal Trade Commission, should be empowered to some degree at least to prevent such an unfair trade practice?

Mr. WALKER. Yes.

The CHAIRMAN. And you would not regard that as an unjustifiable interference by government with business?

Mr. WALKER. No, sir; I would not.

The CHAIRMAN. And Sears, Roebuck is one of the largest business houses in the country?

Mr. WALKER. Yes.

The CHAIRMAN. What do your annual sales amount to?

Mr. WALKER. I think last year it was about \$525,000,000.

The CHAIRMAN. In how many States do you conduct business?

Mr. WALKER. Every State of the Union.

The CHAIRMAN. What is the capital stock of Sears, Roebuck?

Mr. WALKER. It is a no-par stock and I think over 5,000,000 shares.

Mr. MUMMA. 5,614,000.

The CHAIRMAN. What is the invested capital of Sears, Roebuck?

Mr. WALKER. I can't tell you offhand.

The CHAIRMAN. But in any event it is one of the big distributors of the country operating in all of the States of the Union?

Mr. WALKER. Yes.

Mr. MONTGOMERY. It is also a large manufacturer, is it not, Mr. Walker?

Mr. WALKER. We own and are interested in many, many manufacturing companies. As Sears, Roebuck & Co. we manufacture nothing and we own stock in many manufacturing companies.

The CHAIRMAN. As one representative of big business you are testifying, then, to this committee that you are not afraid of Government interference.

Mr. WALKER. We have been helped, I think.

The CHAIRMAN. Thank you very much.

Mr. MONTGOMERY. May I ask you, Mr. Walker, if, as a representative of big business, are you also testifying that you are not afraid of consumers?

Mr. WALKER. Not to be facetious, but, of course, we live on consumers.

Dr. LUBIN. May I ask you a rather broad question? Perhaps you won't be able to answer it, but I would be interested in knowing what your attitude would be. You people deal with thousands of items; in fact, you deal with most of the necessities of life. If these standards as you described for heating equipment, and which could be made available perhaps for thousands of other items that enter into our standard of living, if the consumer actually wants to take advantage of these standards, in other words take advantage of such information as would be available as to permit him to get the best product at the lowest unit price, what do you think would happen to

the cost of living in this country? In other words, how much do you think the average consumer who took advantage of those specifications could save in terms of his budget?

Mr. WALKER. I would just have to hazard a guess. I have been very much interested in the testimony that is going on here. We sell drugs made by the same manufacturer that makes the advertised drugs. For example, your tooth paste yesterday: We have a tooth paste for 19 cents that is the same tooth paste that is sold in our store under different brands for around 49 cents, but the consumer buys the 49-cent generally from her store, almost the same thing. And you find that generally. As the chairman so wisely said yesterday, you just can't stop advertising and the effects of it; and if the consumer knew the standards, I would say that in many of the products that he buys he would save, oh, 25 percent at least.

Dr. LUBIN. Would it be an exaggeration to say that if this information were available and consumers took advantage of it the standard of living could be increased by at least 10 percent, by and large, throughout the country?

Mr. WALKER. Oh, much more than that. I would say 25 percent.

Mr. MONTGOMERY. Well, the point is that the consumer doesn't know that the 49-cent tooth paste and the 19-cent tooth paste are the same.

Mr. WALKER. No; and we can't tell him.

Mr. MONTGOMERY. Do you think if there was a standard that defined the tooth paste we might educate consumers to believe that one was the same as the other?

Mr. WALKER. I don't think so.

Mr. MONTGOMERY. You think it would take an educational process in addition to the standard?

Mr. WALKER. Yes.

Mr. MONTGOMERY. I agree with you.

The CHAIRMAN. Is that all?

Mr. MONTGOMERY. Yes.

The CHAIRMAN. Thank you very much, Mr. Walker and Mr. Munma.

(The witnesses, Messrs. Walker and Munma, were excused.)

The CHAIRMAN. How about the next witness?

STATEMENT OF ROBERT MARTINO, CHIEF OF CONSUMER CONTACTS AND LABELING, NATIONAL BUREAU OF STANDARDS, WASHINGTON, D. C.

Mr. MONTGOMERY. Let's get your name in the report.

Mr. MARTINO. Robert Martino.

Mr. MONTGOMERY. What is your position with the Bureau of Standards?

Mr. MARTINO. Chief of Consumer Contacts and Labeling Section. I know nothing concerning the letter referred to by Mr. Walker. That probably was a policy matter. It may have been due to several things—the possibility of not having the proper facilities for undertaking a standard for furnaces; and, secondly, the lack of appropriations.

FUNCTIONS AND ACTIVITIES OF NATIONAL BUREAU OF STANDARDS

The CHAIRMAN. What are the functions and duties of the Bureau of Standards?

Mr. MARTINO. The Bureau of Standards was organized in 1901 to assist technical societies, trade associations, manufacturing firms, distributors, retailers, and consumers in the development of standards and specifications and test methods.

I would like to enumerate some of the activities of the Bureau.

The CHAIRMAN. Well, what authority do you have to enforce the standards?

Mr. MARTINO. We have no authority to enforce the standards. That is a function that comes under the jurisdiction of the Federal Trade Commission. Incidentally, I might say, the Federal Trade Commission relies upon the Bureau of Standards in many cases in issuing the cease-and-desist orders. We ourselves have no police power.

Mr. MONTGOMERY. Let's get that clear. When you say the Federal Trade Commission enforces standards, I think that needs explanation. They don't require goods to be sold on those standards.

Mr. MARTINO. No; they don't. When any commodity is sold on the basis of standards or specifications, there is a certificate or a label stating on that commodity that it complies with that specification.

Mr. MONTGOMERY. Whether or not a label or a method of sale claims that the commodity complies with a specification, it is entirely voluntary with industry, is it not?

Mr. MARTINO. That is correct; but we do not force industry to adopt it. The Bureau of Standards is not developing standards or specifications as such; we cooperate with many technical societies, such as the American Society for Testing Materials, American Standards Association, and various agencies in the Federal Government in developing industrial and governmental standards. Many members of the Bureau staff serve on technical committees of the Federal Specifications Executive Committee in the development of Federal specifications. Many people get the mistaken notion that Federal specifications are developed by the Bureau of Standards. We do not develop Federal specifications as such.

Mr. O'Connell propounded a question that certain advertisements carry statements saying that they comply with Bureau of Standards specifications. Whenever those matters are called to our attention we always get in contact with the agency issuing such statement, advising them of the fact that the Bureau of Standards has no specifications. Of course, when they refer to the United States Government standards they mean Federal specifications. Most of our trouble is with manufacturers who really tell the truth when they say that their commodities comply with Bureau of Standards' specifications, and while that is so in a specific case where we have tested that particular item, we cannot permit a manufacturer to continue to use that statement for the simple reason that although the sample tested did comply with the specification requirements, yet we don't know that similar commodities other than that same sample do actually

comply with the Federal specifications, consequently, we do not permit manufacturers to make those statements.

Mr. O'CONNELL. How do you prevent them from doing that?

Mr. MARTINO. Well, we have never had occasion to refer the matter to the Federal Trade Commission. They usually stop.

Mr. O'CONNELL. You just tell them to stop?

Mr. MARTINO. We tell them to stop and we point out to them that although the sample tested does comply with the Federal specification, that it has been tested by the Bureau of Standards, nevertheless we are not in a position to maintain a representative at the plant to test every conceivable item manufactured by them and permit them to use that statement.

In one instance we do develop standards, that is under our commercial standards service. We have the machinery at the Bureau of Standards whereby any industrial distributor or consumer group can come to the Bureau of Standards and ask for the development of a standard, and those standards as they are developed are known as commercial standards. The procedure is simply this: A proponent group, whether it be a manufacturer, distributor, or consumer, will come to the Bureau and ask that a certain standard be developed covering a given commodity. We canvass the entire field in this particular instance to determine if there are any standards in existence, and we rely pretty much upon our own laboratory experience in the handling of that particular commodity if any test or research work has been made. Preliminary conferences are held with the proponent group to determine what type of standards should be established. Following that a general conference is held at which are represented the producer, distributor, and consumer groups, and at that conference all differences are ironed out. Following the conclusion of the conference the tentative standard is then sent out to industry for acceptance, and 65 percent, I believe it is 65 percent, acceptance on the basis of volume makes the standard effective. It is then promulgated and made available to anyone who wants to use it.

Mr. O'CONNELL. What do you mean by promulgated? What do you do? Is it publicized?

Mr. MARTINO. We print the standard and it is publicized.

Mr. O'CONNELL. How widely distributed is it? How do you do that?

Mr. MARTINO. We have a mailing list composed of Federal, State, county, municipal governments, distributor, retail organizations, and consumer groups.

Mr. O'CONNELL. Would you make that available to consumer organizations such as those testifying here?

Mr. MARTINO. Yes.

Mr. O'CONNELL. Would they in turn be able to make it available to the consumers?

Mr. MARTINO. That is up to them. It depends on whether they want to publicize it.

Mr. O'CONNELL. Suppose they wanted to publicize and put in their pamphlets saying exactly what you gave them, for the information of the consumers, would you have any objection to that?

Mr. MARTINO. Oh, no. You see, that standard when it has been promulgated is not Bureau of Standards standard; it is industry

standard; it is either the manufacturer's standard if the manufacturer were the proponent, or it is the distributor's standard if the distributor were the proponent, or the standard of consumers if the consumer were the proponent.

Mr. O'CONNELL. But it is approved by the Bureau of Standards.

Mr. MARTINO. It is approved by the Bureau.

Mr. O'CONNELL. Would you let the consumer organization tell its readers that it was approved by the Bureau of Standards?

Mr. MARTINO. Oh, yes; all that appears in print.

Dr. LUBIN. As I understand it, the Bureau of Standards tests certain things purchased by the Government, in order to be sure that they meet the specifications that the purchasing agency has set down. Is that true?

Mr. MARTINO. That is correct.

Dr. LUBIN. I take it that you test rubber tires that are purchased by the Government to see that they meet Government specifications.

Mr. MARTINO. That is correct.

Dr. LUBIN. And you have certain standards by which you make these tests.

Mr. MARTINO. Yes.

Dr. LUBIN. Could I as an individual private citizen write you a letter and ask you what standards a tire should meet in order to meet the specifications? Would I be told?

Mr. MARTINO. That again is a policy matter. We are not permitted, I don't know whether by law or whether by the Department of Commerce, to give out the results of tests. The procedure is this: If the Navy Department, for example, should send a batch of tires to the Bureau of Standards for test, we would make the report, the report would go to the Navy Department. That releases us of all responsibility and as far as giving out that information is concerned, we are not permitted, but if the Navy Department desires to give it out that is up to them.

Dr. LUBIN. If I were not interested in how the various tires ranked but if all I were interested in was what specifications should a tire meet to meet your specifications, could I have that information?

Mr. MARTINO. I beg your pardon, I misunderstood your question. There is a Federal specification for tires and it is on the basis of that Federal specification that tires are tested. The test methods are likewise described in the specification.

Dr. LUBIN. Would I be able to find out what those specifications were?

Mr. MARTINO. Yes; those specifications are available in printed form through the Superintendent of Documents.

Mr. HENDERSON. Mr. Martino, as a matter of cold reality, these various departments to whom you report the results of tests do not make those public so that the consumer would know what was the rank of commercial brands.

Mr. MARTINO. That is the policy at the present time, Mr. Henderson.

Mr. HENDERSON. I am not asking about what the policy of the Bureau of Standards is. I said as a matter of cold reality, the results of your tests of standards for Government purchases do not find their way out through any agency, so that they would be available for consumers as standards in their purchasing. Isn't that true?

Mr. MARTINO. I can't answer for other departments. I don't know what the policy is.

Mr. HENDERSON. Again I am not asking you to answer for other departments, but I am asking you as someone who has worked with standards and knows something about consumer standards, whether as a matter of general practice they do get out.

Mr. MARTINO. Generally speaking, as an individual, I would say no.

Dr. LUBIN. Do you do much testing for private industry? I mean, do they send materials in to be tested?

Mr. MARTINO. We did that for a time, but the private laboratories said we were in competition with them so we had to stop it.

Dr. LUBIN. Is it possible for any private citizen to secure information on such tests as you formerly did for these manufacturers?

Mr. MARTINO. Much of the results—not the results but the methods of testing and some of the research work conducted by the Bureau of Standards are available in publications issued by the Bureau.

Dr. LUBIN. Results are not available?

Mr. MARTINO. Results of tests are not available.

Dr. LUBIN. Even though they were made by a Government agency for private individuals, no other individual could get those results?

Mr. MARTINO. They are available in a general way, but not specifically as the average consumer would like to have them.

Mr. MONTGOMERY. Mr. Martino, this practice of arriving at a commercial standard is a voluntary operation, isn't it? It is done co-operatively between the Bureau and the trade?

Mr. MARTINO. Yes, sir.

Mr. MONTGOMERY. Mr. Mumma testified awhile ago of the effort of the heating-boiler industry to work out a code defining standards and then getting that standard used in the industry.¹ As I remember his testimony, he said that there were four or five recalcitrant manufacturers who would not subscribe to it and therefore that standard is not operative. What would the Bureau of Standards do in a situation like that if they were working with a trade to try to get the standard approved?¹

Mr. MARTINO. Well, the Bureau of Standards would proceed with the development of the standard and, as I pointed out a moment ago, it would not be promulgated unless 65 percent of the industry based on volume of production would accept the standard. We could not promulgate it.

Mr. MONTGOMERY. And if 65 percent did accept it and the others did not, the standard could be promulgated?

Mr. MARTINO. Yes; it could.

Mr. MONTGOMERY. But there is no requirement that the standard be used in the sale of the goods?

Mr. MARTINO. No; there is no requirement, but if anyone did use that standard—

Mr. MONTGOMERY (interposing). Or claimed to use it.

Mr. MARTINO. Or claimed to use it and labeled a commodity or issued a certificate saying that the furnace did comply with that

¹ Under date of May 25, 1939, the Director of the National Bureau of Standards submitted a memo re Mr. Mumma's statement which was entered in the record as "Exhibit No. 639" during hearings held May 20, 1939, and is included in the appendix to this Part on p. 3475.

commercial standard when in fact it did not, then it would become an action for the Federal Trade Commission.

Dr. LUBIN. Could any taxpayer write you a letter and ask for those specific standards even though they weren't promulgated? Would you put them out yourself? Would you make that information public?

Mr. MARTINO. If they were not promulgated? No; because they are not approved standards.

(Representative Williams took the chair.)

Dr. LUBIN. What we are trying to get at is this. The Bureau of Standards makes these specifications and says: This should be the standard. Now, the industry refuses to accept those, in other words 65 percent of the industry refuses to accept those. The information is available. You know what you think the standard should be. Despite the fact that it is never publicly promulgated, is that information available to the taxpayer?

Mr. MARTINO. That is a question that I really couldn't answer because if the standard is not promulgated we just do not consider that information any more, we just forget about it.

Dr. LUBIN. I didn't forget about it. I would like to know what that standard is so when I buy that product I could ask for and read those specifications.

Mr. MARTINO. You see, that information would be incomplete because if the standard were not developed, that would mean there were some essentials lacking; that is that the majority of the industry would not accept it because of certain defects. If we gave out that kind of information, in many cases it would probably represent misinformation and not the accurate consensus of opinion of the industry.

Dr. LUBIN. I am not interested in consensus of opinion of the industry; I am as a purchaser interested in the opinion of the Bureau of Standards which drew up these specifications.

Mr. MARTINO. We don't draw them up. We do not draw up the specifications. We have nothing to do with the development of those commercial standards. Those are purely industry standards and it is up to industry to arrive at an agreement upon what should be a proper standard. We have nothing to do with that.

Dr. LUBIN. What do you do, then?

Mr. MARTINO. We are merely a cooperating agency whereby we have these various groups meet with the Bureau of Standards. It is done through the Bureau of Standards procedure. We assist them in technical advice, but as far as the development of the standard itself is concerned, that is purely up to industry.

Dr. LUBIN. Do you people have your experts or technicians check on these standards to see whether they are reasonable?

Mr. MARTINO. That is right.

Dr. LUBIN. So you do play a part.

Mr. MARTINO. We play a part in rendering technical assistance.

Dr. LUBIN. Let's assume a certain standard were submitted to you and your technicians said, "These are good standards," but because of some difficulty in the industry you couldn't get 65 percent of the industry to accept them, yet your technicians having approved them,

could I, as a taxpayer, get you to tell me what your technicians have approved of?

Mr. MARTINO. I suppose you could. Of course, not being a technical man myself, I couldn't very well answer the question. As I said in the beginning, I am merely speaking in a general way.

There is another activity going on at the Bureau of Standards, in fact has been going on for some 13 years, and that is in connection with the development of a label plan. We have been encouraging manufacturers to put on commodities, labels which indicate that the commodities comply with the requirements of certain nationally recognized specifications such as Federal specifications, commercial standards, or specifications of some technical bodies like the American Standards Association, the American Society for Testing Materials, and we believe that that is something in the interest of the consumer and that many manufacturers are receptive to the idea, many of them are willing to indicate on the label if the commodities do comply with certain technical requirements of specifications.

Mr. MONTGOMERY. Can you tell us what commodities consumers buy that are generally available in the market with that label on? Frankly, I have never seen one.

Mr. MARTINO. You have never seen one?

Mr. MONTGOMERY. I don't think so. Maybe I wouldn't recognize it.

Mr. MARTINO. There are labels on brooms, dry cells, Portland cement, lime, rope, dental alloys, furniture.

Mr. MONTGOMERY. What kind of label would be on furniture?

Mr. MARTINO. One that comes to my mind is on a piece of ordinary furniture, saying that this is genuine mahogany, guaranteed by the association.

Mr. MONTGOMERY. Do you mean that is in general use, if we go out to the furniture store at lunch time and go around, would we find that on most of the furniture in the stores?

Mr. MARTINO. I had occasion to find it 3 or 4 months ago when I had to furnish a house from top to bottom and in several instances I was able to spot the label on certain types of furniture; on two or three grades of furniture, of course, it was a very easy matter for me to select the one I wanted. I took the one with the label on it.

Mr. MONTGOMERY. Did the label show the grade?

Mr. MARTINO. Yes; it showed the grade and also the character of the guarantee statement by the association that it was genuine mahogany.

Mr. MONTGOMERY. Is that label available on most of the furniture, you say, or just a certain proportion?

Mr. MARTINO. On a small proportion.

There are labels on lamps. Woodward & Lothrop had quite a display of lamps not so long ago, lamps that are guaranteed to meet the standards of the Illuminating Engineering Society, tested by the Electrical Testing Laboratories. They call those I. E. S. lamps. Incidentally, I might say they are very good lamps, too, and somewhat cheaper in price than other lamps on the market.

Another activity that is going on at the Bureau of Standards at the present time is the investigation of building materials for the purpose of developing low-cost housing. That activity was started some 2 years ago at the instance of the Central Housing Committee, made

up of representatives of various Federal agencies of the Government interested in housing.

(Discussion off the record.)

Mr. MONTGOMERY. Are you familiar with the wallpaper standards developed in the days of the N. R. A.?

Mr. MARTINO. You mean the commercial standards of wallpaper?

Mr. MONTGOMERY. Yes.

Mr. MARTINO. In a general way.

Mr. MONTGOMERY. Was there a request from the Consumers' Advisory Board that those standards include a standard of washability and, I think, also color fastness?¹

Mr. MARTINO. Yes.

Mr. MONTGOMERY. Were those two items included in the standards?

Mr. MARTINO. I think color fastness was not included in the standard. That matter was referred to the standing committee of that particular standard, and what they did I don't know.

Mr. MONTGOMERY. Who were on the standing committee? What industries?

Mr. MARTINO. Representatives of manufacturers, distributors, and consumers. We always pick a standing committee composed of those three interests. That standard, incidentally, is somewhat out of date. It is my understanding that the industry is now thinking about developing a new standard to include those features.

Mr. MONTGOMERY. Do you know whether the Boiler and Radiator Institute during 1938 brought this code of theirs to the Bureau for assistance in getting it adopted as a standard?

Mr. MARTINO. No; I don't.

I believe that covers, gentlemen, in a general way what the Bureau does. If there are other questions you would like to ask I will be very glad to answer them.

Mr. O'CONNELL. You spoke very briefly about the work that the Bureau has been doing recently in connection with building materials. Could you elaborate a little bit on that as to what you do and what you intend to do?

Mr. MARTINO. I would rather include that in a statement that will come from the director of the Bureau.² I am familiar with the activity but I do not know much about the technical details.

Acting Chairman WILLIAMS. Are there any other questions?

If not, it is the understanding that you want to submit a statement?

Mr. MARTINO. I believe that is what the Senator requested and I will be very glad to ask the Director of the Bureau of Standards to submit a statement on the functions and activities of the Bureau of Standards for this committee's consideration.³

Acting Chairman WILLIAMS. All right. You submit that for the committee for its consideration.

¹ Under date of May 25, 1939, the Director of the National Bureau of Standards submitted a memo re commercial standards of wall paper, which was entered in the record as "Exhibit No. 639" during hearings held May 29, 1939, and is included in the appendix to this Part on p. 3475.

² Under date of May 25, 1939, the Director of the National Bureau of Standards submitted a statement of the functions and activities of the Bureau, which was entered in the record as "Exhibit No. 639" during hearings held May 26, 1939, and is included in the appendix to this Part on p. 3475.

³ Ibid.

Mr. MONTGOMERY. If you can get a copy for the record tomorrow showing the reference made to that other standard you probably will want to explain that situation, because if these men just had the letter they wouldn't know why it was.

Mr. MARTINO. I will be glad to do that.

Acting Chairman WILLIAMS. You put anything in that statement that you please and submit it to the committee for our consideration.

The committee will stand in recess until 2 o'clock.

(Whereupon, at 12:15 p. m. a recess was taken until 2 p. m. of the same day.)

AFTERNOON SESSION

The committee resumed at 2:35 p. m. on the expiration of the recess.

The CHAIRMAN. The committee will please come to order. Mr. Montgomery, you are ready to proceed?

Mr. MONTGOMERY. Yes; Mr. Chairman. Mr. Maddux.

The CHAIRMAN. Mr. Maddux, do you solemnly swear the testimony you are about to give in this proceeding shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MADDUX. I do.

TESTIMONY OF MILTON R. MADDUX, PURCHASING AGENT FOR HAMILTON COUNTY, OHIO

USE OF STANDARDS IN PURCHASES OF CONSUMER GOODS BY PUBLIC AGENCIES

Mr. MONTGOMERY. Will you state your name, please?

Mr. MADDUX. Milton R. Maddux, 1628 Llanfair Avenue, Cincinnati, Ohio.

Mr. MONTGOMERY. Tell us what your occupation is, Mr. Maddux.

Mr. MADDUX. I am the purchasing agent for the County of Hamilton, Cincinnati.

Mr. MONTGOMERY. Do you in that position purchase consumer goods?

Mr. MADDUX. Yes; some of our items are consumers' goods, although we buy them in large quantities.

Mr. MONTGOMERY. Will you just give us a list of some of the consumer goods that you buy?

Mr. MADDUX. A few of them are coal, textiles, clothing, paints, lubricants, soaps, cleaning compounds, disinfectants, insecticides, canned goods, meats, flour, brooms, blankets, shoes, pillows, and hospital goods—things of that type—automobile batteries, furniture and floor polish, and many others.

Mr. MONTGOMERY. I would like to point out to the committee the purpose of this testimony is to show by contrast how consumers' goods can be bought in specific ways in which savings can be effected or the exact quality desired can be obtained by purchasing on a formal and scientific basis in contrast with the way consumers have described heretofore, the way they make their purchases. I think the testimony will bring out some very interesting possibilities for consumers, if something of a similar nature could be made available to them.

I think that can be developed better by the witness when we get through. Will you describe for us in general the purchasing plan with which you operate?

MR. MADDUX. I will read a short paper here, or part of one, that I worked up a few weeks ago for university students concerning the purchasing of supplies, materials, and services for 33 departments and institutions, departments in the County of Hamilton, which is centralized. The purchasing also is coordinated with the City of Cincinnati and the Board of Education. Purchases of each of these political subdivisions approximates or exceeds \$1,000,000 a year; total purchases approximate \$6,000,000 a year for the three coordinated units.

The purchasing plan and system of all three units is generally the same; each purchasing agency strives to promote competition fairly and adequately, and constantly works to attain a goal of complete and adequate specifications for every competitive item purchased. Each unit has its particular laws and statutes under which it operates. Essentially there are only technical differences, which are small obstacles in the matter of coordinating purchases.

The purchasing agents of these units, including the agent of the University of Cincinnati, meet once a week and act upon bids on commodities or services taken for the joint requirements. They develop uniform specifications wherever possible and consider matters of policy of purchasing jointly with supervised testing, and act according to their combined best judgment. The county purchasing department individually serves the Tuberculosis Hospital, County Home, and Chronic Disease Hospital, County Jail, Juvenile Detention Home, County Engineers—that is the highway department, 28 administrative departments, such as the auditor, recorder, clerk of courts, sheriff, and others.

Uniform requisition procedure is employed with the exception of certain emergency items, and agreements are entered into by the purchasing agent and the department under his supervision.

Great care in developing specifications is necessary because of the rule of accepting the lowest and best bids. Weight of furnishing unequivocal proof always is upon the purchasing department.

Surveys are constantly being made of items which are used by two or more departments, with a view to furnishing the same grade and quality to as many departments as possible. This reduces labor in handling and promotes better control of quality and reduces the cost due to greater unit quantities.

Our specifications—I think the question will be asked; I shall answer that now—are by subscriptions to trade papers, that is, they are made available and constructed from information received from trade papers, American Society for Testing Materials, National Association of Purchasing Agents, Consumers' Publications, the United States Bureau of Standards; that is, Federal specifications, I should say correctly—State highway, manufacturers' trade associations, and other governmental agencies.

Our testing facilities are the University of Cincinnati, Bureau of City Testing, and the commercial laboratories in or out of Cincinnati.

MR. MONTGOMERY. Just state what a specification is. What do you mean by a specification?

Mr. MADDUX. A specification, in a broad sense, may mean anything from a small description to a detailed technical description of an item. It is an attempt to tell the bidder what you want so that his bid will be on the article that you wish to purchase. That way you obtain bids on an equal basis and you can more easily accept the lowest bid.

Mr. MONTGOMERY. Do your specifications usually describe, then, what the commodity shall be made of?

Mr. MADDUX. In some cases it does.

Mr. MONTGOMERY. Does it describe, sometimes, how those ingredients shall be put together, how they shall be constructed?

Mr. MADDUX. In rare cases it does.

Mr. MONTGOMERY. Do they describe how the commodity shall perform, what tests it shall meet?

Mr. MADDUX. The specifications, to be complete, should give some reference as to the service the commodity is to perform, or the method of test.

Mr. MONTGOMERY. Do you buy all of your commodities on the basis of specifications that you have established for them?

Mr. MADDUX. All commodities are not bought that way. Those that I have mentioned are. There are others that can't be, because of the complicated nature of the specifications.

Mr. MONTGOMERY. When you don't buy on a basis of specification, how do you make your selection?

Mr. MADDUX. Either by brand name or equal.

Mr. MONTGOMERY. What do you mean by that?

Mr. MADDUX. It means we will take a product we have probably used before, recognizing the brand names as a standard for that particular grade or quality, and ask for bids on that commodity or its equal. In that case we can require the bidder to furnish proof of its equality, or we can supply that proof ourselves. In any case, we must be sure, or as nearly sure as we can be, that we are buying an equal commodity.

Mr. MONTGOMERY. When you buy by specification and samples are submitted on bids, do you have those samples tested to see if they meet the specification?

Mr. MADDUX. Sometimes we do; sometimes we don't. If it is a sample of something that can be tested quickly, we do. Sometimes a test takes a period of time, maybe 2 weeks. Maybe 2 weeks may be too long to wait. In that case we can assume legitimately that if our specifications are clear, without making further remarks on his bid, that the bidder has quoted on our specification. We may even be compelled to take that stand, and accept his lowest bid.

If he fails to produce goods on that order or contract to meet the specifications, he is then liable to cancellation of contract or damages in certain cases if we can buy the material elsewhere and charge him with the difference in cost.

Mr. MONTGOMERY. When you buy goods by brand, do you have your laboratories check them to see if they meet the quality that you want?

Mr. MADDUX. Not always. We do that occasionally, for our own information, and when we suspect that the quality of the brand has changed in the meantime, we might. If we buy by brand, we accept that manufacturer's standard on that item, and we can't kick too

much if we don't like it. In other words, we will change our brand the next time if we don't like the brand purchased.

Mr. MONTGOMERY. In the case of purchasing canned vegetables, let's get down to some specific commodities now. In the case of purchasing canned fruits or vegetables, you buy by Government grades.

Mr. MADDUX. Yes; we use a Government Department of Agriculture grade on canned fruits and vegetables. We buy all four grades, A, B, C, and substandard, according to the use to which we want to put the particular item.

Mr. MONTGOMERY. When the vegetables are delivered do they have a brand on them?

Mr. MADDUX. Sometimes they do. We don't require it.

Mr. MONTGOMERY. Have you found in the samples submitted in purchasing canned fruits or vegetables that there is a variation of grade within a single brand?

Mr. MADDUX. From year to year; yes. We find that the brand last year may not be the same as that same brand this year.

Mr. MONTGOMERY. Do you ever have the same brand offered to you in bids to meet different grades in your specifications for your requirements?

Mr. MADDUX. Yes; we have. I have an instance here which might illustrate that. These are the last bids on the last quantity of canned goods purchased. One company quoted against our request for grade A merchandise, a brand, his first brand, the "Topmost" brand, on five items. Against our specification B he quoted "Sail-on" on nine items, and he quoted "Sail-on" on one item against specification C.

Mr. MONTGOMERY. You mean the specification for grade C?

Mr. MADDUX. Yes.

The same manufacturer quoted "Sail-on" brand on two items specified as grade A. The same manufacturer quoted Red Robe Brand on one item of grade A and one item of grade C. That may not necessarily condemn that manufacturer on some of his grades. He can quote on the grade specified or better. If his pack doesn't have the grade C, he can quote on grade B and take his chances on the price.

Another manufacturer quoted a brand on all three grades, the same brand on 8 items of grade A, 10 items of grade B, and 1 item of grade C.

Mr. MONTGOMERY. In that case, did that manufacturer become the successful bidder in those cases?

Mr. MADDUX. That manufacturer was a successful bidder on a great lot of canned goods. I think our contract amounted to \$22,000 and he got \$12,000 of that.

Mr. MONTGOMERY. The products he delivered on your specifications for grade B, and on your specifications for grade C—do you know what he delivered, whether what he delivered actually measured up to grade A?

Mr. MADDUX. No; what he delivered measured up to the specification and to the standard sample retained at the time the bids were taken. The brand he quoted on was his first quality brand. We have no objection to a bidder quoting us a low price on a brand which he represents to the trade as his best brand and including it

under our grade B or grade C. That is no crime. He can offer that or better.

Mr. MONTGOMERY. This testimony might be incorrect or carry a wrong inference. I want to get it right. Did he in that case deliver grade B goods under that brand?

Mr. MADDUX. I can't say.

Mr. MONTGOMERY. It may have been top grade?

Mr. MADDUX. It may have been first grade. It was a grade equal to the standard sample which was accepted at the time the cutting took place, and indicated to us as grade C or better in that classification, or grade B or better in that classification.

Mr. MONTGOMERY. So that your testimony doesn't necessarily indicate a variation of quality within the brand, does it?

Mr. MADDUX. Not necessarily.

Mr. MONTGOMERY. Do you buy creosol compound?

Mr. MADDUX. Yes. Creosol compound is a disinfectant. It is commonly known by the public as Lysol, which is a highly advertised product. Lysol is a creosol compound. At the time I came to the county they were paying \$1.25 a gallon for it.

Mr. MONTGOMERY. That is, you were buying it on the basis of the brand name?

Mr. MADDUX. Yes; the brand name, and paying \$1.25 a gallon. As soon as I was able to convince our superintendents that we could apply a specification to that item we bought according to specification and our price is now 70 cents a gallon. We are in fact, however, still quoted \$1.25 against our specification; they are consistent in their prices, but the compound can be bought according to the proper specification at 70 cents a gallon.

Mr. MONTGOMERY. Your specifications are substantially the same as Lysol?

Mr. MADDUX. They are. The tests we have run on both products show that the bacteria count after sterilization by our creosol compound is equal—I won't go any further than that—to Lysol.

Mr. MONTGOMERY. Your specifications for that product are based on its actual performance in killing bacteria?

Mr. MADDUX. Yes; in that it specifies that the phenol coefficient of the item.

Mr. MONTGOMERY. You buy flour, do you not?

Mr. MADDUX. Yes.

Mr. MONTGOMERY. What do you require on flour? What are the items? I don't think we care about the percentages, but what quality factors in flour do you call for in your specifications?

Mr. MADDUX. Flour is bought on the basis of specification. The specification includes the requirement and the detailed analysis. I will read it:

Type A flour—

that is the standard flour—

shall be made from dark Kansas, sound, hard wheat, free from smut and weed seeds, shall be strong, high ground, well dressed, of a good creamy white color, and capable of yielding a loaf of good volume, texture, odor, and taste; shall not be lower than a straight grade, shall contain not more than 15% moisture, determined by the vacuum oven method; shall not exceed 0.46 percent of ash, not less than 11.6% of protein. The flour shall be capable of absorbing not less than 60% by weight of water. The ash, protein, and absorption shall be computed on the basis of 15% moisture.

Any flour that we buy can be analyzed and found to meet that requirement.

Mr. MONTGOMERY. Do you ever buy flour at retail for use in your home?

Mr. MADDUX. I just asked Mrs. Maddux about that and we don't buy much bread flour at home, and she doesn't know the price, either.

Mr. MONTGOMERY. Do you buy lubricating oil by specification?

Mr. MADDUX. Yes, sir; automotive lubricating oils and industrial oils both are bought by specification.

Mr. MONTGOMERY. Did you always buy it that way?

Mr. MADDUX. No. Automotive lubricating oil at one time was bought by brand, but that was a year before I came with the county. I discovered that the City of Cincinnati had a specification, and I used theirs the first and second year, and from then on we cooperated on our specification writing and have specification data that we both use jointly.

Mr. MONTGOMERY. Tell us how you buy lubricating oil, will you, and what you have been able to do to save money for the county and the city by the way you buy lubricating oil?

Mr. MADDUX. Automotive lubricating oil, a good oil, ordinarily will sell in wholesale quantities around 65 to 75 cents a gallon. The first time we took bids we had a price of 25 cents a gallon and we got fairly satisfactory results, but we realized through our own use and other information received that that oil wasn't the best. In order to hold our position as quality buyers as well as price buyers, we decided to step up our requirement and specifications to provide an oil that could not be criticized, and knowing that by using a quality oil we probably would benefit our equipment by providing a better lubricant. Through the University of Cincinnati and conversation with lubricating engineers, we found that we could develop a better specification, and did. We are paying now 33 cents a gallon for our lubricating oil. I am going to avoid definitely mentioning the brand of this lubricating oil for obvious reasons.

Mr. MONTGOMERY. Thirty-three cents a gallon?

Mr. MADDUX. Thirty-three cents a gallon—without tax.

Mr. MONTGOMERY. What were you paying before?

Mr. MADDUX. We were paying previously 65¢ and down to 23¢, but the 23¢ oil was not what we considered a satisfactory oil.

Mr. MONTGOMERY. Do you know what the brand of the oil is—I am not asking you to name it—under your specification?

Mr. MADDUX. Yes.

Mr. MONTGOMERY. Is that sold at retail in Cincinnati?

Mr. MADDUX. Yes; it is.

Mr. MONTGOMERY. What is the charge for it at retail?

Mr. MADDUX. Thirty-five cents a quart.

Mr. MONTGOMERY. As compared with 33 cents a gallon?

Mr. MADDUX. Yes.

Mr. MONTGOMERY. That is an indication of part of the distribution cost; at least, it shows the difference in cost of distribution at retail to the consumer and distribution to a large buyer under specifications, 35 cents a quart to the consumer and 33 cents a gallon to you.

Mr. MADDUX. Yes.

Mr. MONTGOMERY. The same oil?

Mr. MADDUX. Yes, sir; the same oil.

Mr. MONTGOMERY. Have you finished on lubricating oil?

Mr. MADDUX. That is all I have; that is all that is necessary.

Mr. MONTGOMERY. Do you buy aspirin?

Mr. MADDUX. Yes; we buy aspirin, but we don't buy it as such, although aspirin is a name for acetylsalicylic acid tablets, 5 grains.

Mr. MONTGOMERY. How much do you pay for it?

Mr. MADDUX. Fifty-two cents a thousand.

Mr. MONTGOMERY. Wait a minute; the consumer buys that by the hundred. How much does that figure out per hundred?

Mr. MADDUX. That is \$5.20 a hundred.

Mr. MONTGOMERY. Fifty-two cents a thousand? Five cents a hundred, isn't it?

Mr. MADDUX. Five cents a hundred, yes; excuse me.

Yes; that is 5 cents a hundred, of course.

Mr. MONTGOMERY. Have you always paid 52 cents a thousand for it?

Mr. MADDUX. No; we bought aspirin as aspirin, although we always did specify 5 grain, I believe; our prices at one time ranged from 65 cents to \$1.10, and I looked at my record before I came up here to see whether or not there was any particular brand specified and I couldn't find any, although there were brands on the orders, but I couldn't find where the brand was specified in our inquiries.

The brand was offered on the bid. Sixty-five cents, \$1.10. The reduction in price from 65 cents to 52, I think, was brought about by our estimating our annual requirement, coordinating with the city, and making one joint agreement, which is 500,000 tablets.

Mr. MONTGOMERY. You buy cleaners, of course?

Mr. MADDUX. Yes; we buy cleaning compounds.

Mr. MONTGOMERY. How do you buy those?

Mr. MADDUX. Those are brought strictly by specification.

Cleaning compound is a subject that you always get a laugh out of when the salesman tries to sell it to you. For 6 months after I took office at the courthouse I think every other salesman sold a cleaning compound, insecticide, or deodorant, or disinfectant, something in a can, that he was willing to demonstrate and show me how it worked. Upon questioning on what basis he would demonstrate, he would say: "Give it to your janitor and let him try it." If you know the average intelligence of a janitor, you know that he might test it and say it was good or it was bad. He may be indifferent, but he will not in any two cases make his test alike, and therefore there is no standard of testing. So that was out.

We decided that it was better to write our own specifications. We found first of all by laboratory research that most of the cleaning compounds are trisodium phosphate; some have ammonium chloride in them; some, chloride of lime; some, a few other things to fortify them or give them a slight disinfecting property. In cleaning compounds we decided to have two types—a general cleaner, and a dish-washing compound which comes in that classification. The general cleaner we worked up is a combination of trisodium phosphate and ammonium chloride and soda ash. If used in the proper quantities, it is the best kind of cleaner you can want. For dish washing the same ingredients, but including pyrophosphate, which is a lime-suspending agent.

Those will give us as good a compound as could be obtained and as good a compound as known, I think, on the market, with the exception of some very late developments in the sulphate alcohols and expensive items of that kind which we are not interested in.

The cleaning field often is a funny subject. One night a salesman came in the office about a quarter after four (the office closes at 4:30) and wanted to tell me something; he didn't look like he was very wealthy and probably was out trying to do a job. I listened to him until quarter of five or 5 o'clock; he was demonstrating and he cleaned our filing cabinets and the linoleum and the marble between my office and the one on the outside, and when he finished he had cleaned the top of my desk, and it all worked, it was all right. He wanted 10 cents a pound for it in drum lots. I reached in my desk drawer and pulled out some furniture polish that I had made myself and polished the top of my desk, and he was very enthusiastic about it and wanted to buy my formula. I told him if he wouldn't bother me about any 10-cent cleaning compound I would give him the formula. It was 33 percent paraffin oil and 67 percent naphtha. So he had my formula for furniture polish and I wasn't bothered with him any further. He did leave a sample, and we had it analyzed, as we usually do, and it should have cost us about 2.8 cents a pound, that is on the basis we were buying other items. So that puts us really on the offensive now when we are buying cleaning compounds.

Mr. MONTGOMERY. Generally speaking, these people that want to sell you a cleaning compound under some name, ask what in price; around 10 cents?

Mr. MADDUX. About 8 to 12 cents a pound is the price they quote us in drum lots.

Mr. MONTGOMERY. What are you paying for that under your specifications?

Mr. MADDUX. \$2.80 to \$4.30 a hundred pounds, 2.8¢ or 4.3¢ a pound.

Mr. MONTGOMERY. Something less than half the price quoted to you under names.

Mr. MADDUX. Yes. On our dish-washing compound we had four approved brands at one time, and they were all very satisfactory. I tried to find out how to specify it, and I wasn't very successful, so we simply bought some, or we took it from our supply and had the university test it. We talked to the gentlemen that were selling the product and they had no objection to our stealing the formula if we could find out what it was. By doing our own work and paying for it we didn't consider it stealing anybody's formula. We wrote our own specification, and on the next contract the price dropped from 7½ cents a pound to \$4.50 a hundred pounds, or 4½ cents a pound, and from that time on our use of that compound declined, probably due to its better quality, and recently when I tried to supplement that particular specification with one which I consider a better one now, the departments objected because they were having such good results from that particular specification.

Mr. MONTGOMERY. Do you happen to know what some of these cleaning compounds sell for in the market? Do you have any figures?

Mr. MADDUX. No, I can only guess. There is no standard of price on that. I really couldn't say. I recall times when we have made

comparisons I think up to 7 cents a pound on some of them wholesale. There is no basis for it, and I don't recall any particular one, except that sometime ago I figured it was 7 cents a pound for material we could buy for $3\frac{1}{2}$ to 4 cents a pound.

Mr. MONTGOMERY. Three or three and a half cents cheaper?

Mr. MADDUX. Yes. I think the public could know very easily that there are some ordinary chemicals that they can buy in any wholesale or retail store that might sell it; I know you can buy trisodium phosphate that will clean practically anything you want to clean in the way of grease or greasy dirt, things of that kind, and that can be bought for 10 cents retail in small quantities.

Mr. MONTGOMERY. You buy flashlight batteries, don't you?

Mr. MADDUX. We buy both flashlight and automobile.

Mr. MONTGOMERY. Will you tell us about the various items?

Mr. MADDUX. The city of Cincinnati buys considerably more flashlight batteries than we do, but as we both operate under the same agreement, the county gets the benefit of the lower prices. The story in connection with flashlight batteries is that on a certain Thursday when the Coordinating Group was to consider bids received on flashlight batteries, a publication came to my desk, which happened to be the Consumers Union Reports, with information concerning the relative qualities of flashlight batteries. I do not use the decisions of the Consumers Union Reports in the purchase of my commodities, although it is interesting to compare the results of tests as reported in this publication with our own.

Mr. MONTGOMERY. Who had had a report, Consumers Union?

Mr. MADDUX. Yes. They had a certain battery listed as not acceptable. It so happened that that very battery was quoted to us at the lowest price. I mentioned this to the committee, which caused us all to laugh; in other words, the coincidence seemed rather strange. We decided the best thing we could do would be to work out our own test inasmuch as we did not want to take the Consumers Union report for our reference because it could not be used later legally. We bought three batteries of each make on the open market, and let them burn for periods of 2 hours. They were then shut off for 1 hour, and then burned for 2 more hours as long as the day lasted. They were started in the same manner the next morning, and the test continued until the batteries failed. We found that the battery rated as number one in the publication rated as number one with us. The three batteries of this make not only rated the highest in average life, but were most uniform.

The battery rated second by the publication rated second with us. We considered these batteries good batteries and acceptable. Of the make of batteries that rated worst, one gave 25 hours service and one 15 hours, and the life of the third one I do not recall, but they showed a lack of uniformity, and therefore were not acceptable to us. It is interesting that our test did bear out someone else's test; and the test was one that could be done by anybody.

Mr. MONTGOMERY. How do you purchase insecticides?

Mr. MADDUX. Insecticides at one time were bought by brand. Prices are shown on our records of \$1.25 to \$2.50 a gallon. Insecticides are necessary at the County Home and the places where the old folks visitors come in and often bring bedbugs and the like into the insti-

tutions, and we have to keep after them all the time. Also, the buildings are old and are a breeding place for roaches and other insects. So we have to buy insecticides in considerable quantity. It occurred to me that there was something to do about the price and quality, so we developed our own specification 4 years ago. We had a specification that worked very successfully and reduced our price from \$1.25, which was the best price we had up to that time, down to about 55 or 58 cents a gallon. And the strange part about it was we received positively no criticism from the trade for buying a cheap product, or buying at that price, and we did receive letters of commendation from insecticide manufacturers and "Soap" publications as to the specification.

We now are using a commercial standard published by the Government Printing Office, I suppose with the aid of the Bureau of Standards, in which that commodity is graded. There is a law, I believe the Insecticide Act, that requires all containers to be grade marked. Instead of using our own specification now we are using Government rating of plus double A; that is 16 over the standard, over the average kill (flies). There are 3 grades; A, double A, and B. We are using a double A and are having success with that.

MR. MONTGOMERY. Do you use Government grades in the purchase of meats?

MR. MADDUX. Our meats are purchased, first of all on Government specification, or grading, I should say; that is the description of grade. Secondly, we have an authorized inspector under the Department of Agriculture, Bureau of Agricultural Economics. The Government grades our meats before they go into the institution; every piece of meat must be accepted as being equal to the grade specified, and so stamped.

MR. MONTGOMERY. Consumers buy something called mineral oil; do you buy that?

MR. MADDUX. Yes; we buy mineral oil which we call liquid petrolatum, U.S.P. That is bought on the specification which is in the main a requirement of the U. S. Pharmacopoeia. That was bought on brand sometime ago as a cost of 72 to 91 cents a gallon. We are now paying 73½ cents a gallon, based on U.S.P. specifications.

MR. MONTGOMERY. What does that sell for at retail; do you know?

MR. MADDUX. I think I paid 80 cents for a bottle of about a pint not long ago, and of course that will last a long time in a home—or we hope it will.

MR. MONTGOMERY. As compared with 73½ cents a gallon. I think that gives a good example of the ways in which a purchaser in your position goes about ascertaining what one is getting, and also in getting them at a good price. You are a consumer as well as a purchasing agent, aren't you, Mr. Maddux?

MR. MADDUX. Yes; I am.

MR. MONTGOMERY. What do you think about the way we consumers buy goods out in the retail market?

MR. MADDUX. I believe first of all there are a lot of common things that can be bought by their own names that would save consumers a lot of trouble and money. I mentioned one, trisodium phosphate, in the cleaning field. You can buy coffee by buying coffee; that is No. 3 Bourbon Santos, which is a trade reference you see quoted in the

papers every day; buy that from a recognized coffee house as such and have it ground fresh and have an excellent cup of coffee for less money than you can buy branded coffee.

Mr. MONTGOMERY. How much can you get it for, do you know, retail?

Mr. MADDUX. About 14 cents a pound, I believe, retail, and that same coffee in a package would cost you 18. I know those figures are correct because I have had contact with one packer in Cincinnati who furnishes special blends and I know what he puts in his coffees. A coffee that is offered to the county, one that we buy, is costing us 13½ cents a pound. We specify what the coffee shall be and mix it ourselves, so we know what we are getting.

The consumer that goes for a lot of package goods and canned goods is admitting that he doesn't know how to buy those things by their own names, or he wants to save trouble in preparing it, or storing. In that case I think he can expect some difficulty in grading, because a constant grade can't always be accomplished. However, there are some things that can be graded and I think ought to be graded. I feel in the textile field that textiles can be graded much easier than some other commodities. I am still waiting for the time when I can go into a store and buy a shirt with a Federal specification marked on it, or something that would indicate to me that that shirt material is comparable to a specification that I have in mind, and know that the next time I want to buy that shirt, if it is satisfactory, I can get one like it.

It is hard now to buy the same shirt unless you buy the same brand. If you like a certain quality of shirt and you want to buy the same grade the next time you must buy that same brand; for if you change your brands you are not certain what you are getting. If the shirt tail is marked with an indication of the quality of broadcloth, at least you can see the workmanship, and you are protected that far.

Mr. MONTGOMERY. Have you had bad experience in buying shirts?

Mr. MADDUX. I have had my share of it; yes. One of the leading stores in Cincinnati sold a shirt, \$2.95 shirt, for \$1.95 on sale; I bought half a dozen of them and found they weren't worth \$1.95. I don't believe that that store knew that the shirt wasn't good; the broadcloth split and the collar band wore out far too soon. Shortly after that I talked before a consumers' group in Cincinnati which included representatives of department stores and I suggested in an off-hand way that they use the University of Cincinnati, or set up an independent laboratory of their own on a cooperative basis to find out what they were selling.

In another instance a store in Cincinnati that advertises one particular brand of goods has gone over completely to nationally advertised products. That is all right in a way. On the other hand, that store would be better off, in my mind, at least so far as I am concerned, if they would establish their own grades, or tie their grades up with something that would indicate to me that the quality is there, and not necessarily the brand. The average department store and wholesaler will buy what he can sell and without regard to grade. I know that because I have asked a number of them. When it comes down to our taking bids they offer brand. "Does that brand meet specifications?" They will often take a chance; they will say "Yes."

I say, "How do you know?"

"Oh, because this is a reputable mill."

"Do you know that this item meets with our specifications?"

No; they don't know that; they haven't made any tests; although they sell thousands of dollars' worth of merchandise they haven't made tests. They pass it on to me as representing what I want, and at the same time they don't know.

Mr. MONTGOMERY. As a purchasing agent you buy some textiles, don't you?

Mr. MADDUX. Considerable.

Mr. MONTGOMERY. Do you buy any of them by brand?

Mr. MADDUX. We buy those by specification. We have a complete set of specifications. I brought along copies of it. Our office copies of these specifications include not only the specifications but a piece of the material, and in case of manufactured goods, a drawing of the garment itself. This is primarily designed for our own help, so that the superintendent of an institution will know what our standard is and will order according to our specification number instead of a lot of descriptive matter that means nothing. These specifications are complete in that sense.

Mr. MONTGOMERY. I think that is all the questioning I want to do. Does any member of the committee have any questions?

The CHAIRMAN. Are there any questions to be propounded of this witness?

Mr. MONTGOMERY. Have you anything else you would like to add, Mr. Maddux?

Mr. MADDUX. No I believe not, except in the case of fruits and vegetables, speaking of grades, my food buyer has a copy of the publication put out by the Department of Labor, Consumers' Project, Analysis of United States and State Standards for Fresh Fruits and Vegetables. This goes into detail as to what a U. S. No. 1 potato is from Idaho or Vermont or anywhere else, and it is up to him to be able to interpret this specification when he buys. At the same time we find that most of our fresh fruits and vegetables are being graded on the packages by government graders, which assists us materially. I believe if the consumer could see those grade marks when he buys it would probably assist him. We are in this instance a consumer and if a small consumer could buy in larger packages it would assist him.

Mr. BALLINGER. You have been giving illustrations of how you can buy more cheaply. Is it due to the fact that you are a volume purchaser and you can get a better price, or because you can specify the elements in it?

Mr. MADDUX. It may be both. In the case of our dishwashing compound, that is a direct specification saving. We were paying $7\frac{1}{2}$ cents a pound. The same manufacturer supplied us the same material when bidding on our specifications, at $4\frac{1}{2}$ cents a pound.

Mr. MONTGOMERY. That is, when you were buying by name you paid $7\frac{1}{2}$ cents, and when you bought by specification, $4\frac{1}{2}$ cents.

Mr. MADDUX. There may be a reason for that from a marketing standpoint. He can sell us and put our specification number on the package and get around the laws that require him to sell at the same price to everyone in a certain group. He can't sell his Emeralite dish-washing compound at $4\frac{1}{2}$ cents a pound. If he did, he would

have to sell at that price to hotels. But he can sell our specification No. 6 at that price.

Mr. BALLINGER. Then you believe if products were bought more and more on specifications, if there were some way the consumer could buy on specifications, there would be a real saving?

Mr. MADDUX. I don't think there is any question about it, particularly under our marketing practices today and the laws which permit the governing of resale prices. If a brand is sold at one price to one type of consumer or buyer, it must be sold at that price to the other buyers in the same classification.

In the case of our oils; the oil company is selling its oil at a much higher price to commercial users, but is showing a brand name on that product, whereas on ours we have our specification number, but our analysis shows it is the same product.

Mr. MONTGOMERY. Thank you very much indeed, Mr. Maddux. I think that was very interesting and a real contribution to this record. (The witness, Mr. Maddux, was excused.)

The CHAIRMAN. What is the next order of business, Mr. Montgomery?

Mr. MONTGOMERY. Mr. Chairman, I prepared this morning, not knowing whether the hearings would conclude in sufficient time for me to make a statement, summarizing what I believe the testimony to have been during these 3 days, this statement of my summation of the testimony. I would like to read that into the record and then have any discussion of it that the committee may desire. Is that satisfactory?

The CHAIRMAN. It will be quite all right. Without objection, you will be permitted to proceed.

Mr. MONTGOMERY. The first subdivision is under the heading of "Standards":

All of the witnesses testifying on May 10 and May 11 have shown the difficulties confronting consumers in making their purchases.

Mrs. Alice Beleser, Chicago housewife, testified that the facts given in advertising, on labels, and by sales clerks are not the facts which she needs.

Mrs. Paul S. Roller, Berwyn, Maryland, of the American Association of University Women, testified that neither she nor other consumers can rely upon brand name as a basis for judging quality, although consumers are repeatedly urged to make their selections on the basis of brand. She showed that brand and quality do not necessarily correspond.

She testified also that variations in the size of package deceive consumers with respect to comparative prices.

Dr. Ruth Ayres, New York City, an economist, testified to the impossibility of making intelligent selection from among the confusing variety of sizes, brands, and prices, with quality factors not disclosed. She illustrated by her own purchases the deception which may follow the packaging of commodities in off sizes.

Mr. Jerome W. Ephraim, New York City manufacturer, testified that his tooth paste which meets standards of the American Dental Association can be sold to consumers at about half the price charged by the ten leading brands of tooth paste which occupy 90 percent of the market. He testified that only one of the ten leading brands has received the Association's acceptance.

Mr. Dexter Masters, New York City, testified to the unreliability of price as an indicator of the quality of merchandise. He, too, illustrated the need of standards whereby commodity characteristics can be accurately described to consumers, presenting evidence of the unreliability of the "grades" that are used in the sale of milk in one market; of the superior utility of a low-priced vacuum cleaner compared with others costing more than twice as much; of the great range in actual prices of toilet soaps all having substantially the same quality for cleansing purposes; of the range in price of lipsticks having the same approx-

imate quality and the same low ingredient and container costs; and of the wide differences in qualities of different brands of shoes and tires selling at the same prices.

Witnesses appearing on May 12 showed (1) the need for standards in the merchandising of certain household equipment, and (2) the use of standards in purchases made by three public agencies in Cincinnati, Ohio.

Representative REECE. Are these being printed as conclusions of the committee or a summation of the evidence?

The CHAIRMAN. This is just Mr. Montgomery's summation of the evidence. They are not at all conclusions of the committee.

Mr. MONTGOMERY (reading):

The first of these, Mr. L. R. Walker, of Sears, Roebuck & Company, testified to his opinion that sale of goods to consumers on the basis of standardized descriptions of quality and performance would be beneficial to manufacturers, distributors, and consumers and would contribute to the maintenance of competitive enterprise.

CONSUMER CREDIT

Dr. Ayres presented evidence of the deception practiced by well-established stores and others with respect to interest charges quoted in installment contracts. She testified also that this deception was only a minor part of the injuries inflicted upon consumers through the methods by which credit is extended to consumers on their purchases, stating that the terms of installment contracts frequently run severely against the interests of the purchaser.

CONSUMER SERVICES AND ORGANIZATIONS

Mr. Masters testified to the need for a standard basis upon which the performance of commodity rating agencies might be compared and made known to consumers.

Miss Persia Campbell, New York City, executive secretary of Consumers' National Federation, offered evidence to show why consumers doubt the reliability of commodity rating services furnished by commercial agencies. She offered evidence to show the unreliability of consumer educational materials furnished by commercial sources to the schools. She offered evidence to question the purposes of consumer organizations sponsored by commercial sources. She called attention to a newspaper report to the effect that a leading trade association attorney had recommended regulation of those who say they represent consumers professionally.

RETAIL PRICE MAINTENANCE

Dr. Ayres submitted extensive quotations from the trade press which reported (1) the organization of political pressure by retail druggists in favor of price-maintenance legislation, (2) the organization of boycotts and other forms of coercion by retail druggists upon manufacturers and the press, and (3) the effort of retail druggists to obtain an assured mark-up of 33 $\frac{1}{3}$ percent (of selling price) on advertised products. She testified that, because of such evidence, consumers have reason to fear the effects of price-maintenance legislation, and she stated that consumers, because of this fear, want an investigation and a report of the actual effect of such legislation upon themselves and upon other factors involved. She testified that some large business interests are reported to be in favor of such legislation, while other large interests are reported to be in opposition.

ADVERTISING

None of the witnesses testified on the merits or demerits of advertising as such. Since this interpretation, however, was placed upon the testimony, the testimony of the witnesses is here summarized separately under that heading.

The witnesses stated that advertising does not give them the information they need to make intelligent purchases and that other types of information are necessary. They testified to the harmful effect upon consumers of false and misleading advertising, the examples of which were taken from official reports

of actions by the Federal Government. They testified that they are urged by advertising to make their purchases on the basis of brand name, and they cited a number of instances to show that such names do not assure consumers that the quality of products under a given brand name is either uniform or satisfactory for their purposes. One witness cited Federal Trade Commission cases to show that "guaranteed" advertising and advertising purporting to be scientific and impartial may be false and misleading and not impartial.

RECOMMENDATIONS

The following specific recommendations have been urged upon the committee by these witnesses:

(1) That standards of consumer goods whereby their quality and usefulness for consumers may be accurately described be made available for use in the sale of such goods. The witnesses indicated that the definition of such standards should be undertaken by the Government.

(2) That the sizes of packages in which foods are sold to consumers be standardized to eliminate confusion and deception.

(3) That the committee ascertain and make known to consumers the effects of resale price maintenance legislation upon retail prices and upon the other factors involved.

(4) That this committee investigate and make known to consumers the facts concerning the performance of commodity rating agencies, the use of advertising material in the schools, and the purposes, financing and programs of organizations which are, or which purport to be, organizations of consumers.

(5) The proposal made in February, 1938, by a number of consumer spokesmen that a central agency of consumer services be established in the Federal Government was placed before the committee.

I obtained and assisted the services of these witnesses at the request of this committee. The testimony which they have presented is their own. Their resources for preparing and presenting this testimony are extremely limited. To the recommendations which they have made to this committee I wish respectfully to submit my recommendation that this committee undertake to examine adequately and thoroughly the questions of vital household consumer importance which they have presented to you, and further that it investigate the costs of distribution of consumer goods in general and of the effect upon retail prices and consumer costs of the various practices which these witnesses have described to you in particular.

The CHAIRMAN. Mr. Montgomery, do you mean to state by your comment on advertising that there was no basis for the interpretation that was placed upon the testimony of the witness, Ephraim?

Mr. MONTGOMERY. I am referring, Mr. Chairman, to these statements from the transcript that I received this morning, on page 307. I am at this point quoting yourself as the chairman:

That seems to do away with the whole testimony of the witness because you brought him here to make an attack on advertising, but when he is brought face to face with that he denies the attack on advertising.

That statement was carried in the press this morning, and it has been represented generally throughout the country that I have been engaged here in making an attack upon advertising.

The CHAIRMAN. And of course you are neglecting to read the two sentences that follow:

Mr. MONTGOMERY. I certainly object, sir, to the statement that we brought him here to make an attack on advertising because that implies a motive that doesn't exist.

The CHAIRMAN. I don't want to imply this motive, but that is what he is— and then Mr. Montgomery interjected and interrupted the explanation of the chairman.

Now let me ask you two or three questions about your own testimony and that of Mr. Ephraim, on page 304, inasmuch as you have

chosen to challenge the interpretation that I placed upon the testimony of the witness Ephraim. On page 304 of the transcript:

Mr. MONTGOMERY. What did you find out it would cost you to put your product on the market the way these outlets were suggesting to you?

Mr. EPHRAIM. I took the matter up with several advertising agencies and it involved, according to one well-known advertising agency, at least \$100,000 to find out how the thing might go * * *

and so forth.

In the second column:

Mr. MONTGOMERY. Let me get that clear. The \$100,000 outlay that the advertising industry suggested was solely for the purpose of determining how this product could be put across to the public?

Mr. EPHRAIM. Correct.

Then, on the bottom of the column:

The CHAIRMAN. Then what is the purpose of this story? What are you driving at?

Mr. EPHRAIM. What I am driving at is this, that you have heard the testimony of people before me, more or less representing the consumer, who want a certain type of thing, certain information, and so on, and so forth. I am on the other side of the fence here. I am trying to get it to them. The purpose of all this is to attempt to show, at least, that we have a stone wall existing. I cannot get to them because I cannot get my tooth paste in the usual outlets because no store is going to carry the tooth paste unless I create the demand that I have indicated to you.

Mr. MONTGOMERY. That stone wall is these ten brands which have been able to make outlays to establish themselves in the market, is that it?

Mr. EPHRAIM. You have a stone wall, a monopolistic situation or anything you might want to call it, in which ten brands control 90 percent of the business, according to the Fawcett Publications.

Then we go across to the next page, page 305, in the first column:

Mr. EPHRAIM. It is no reflection upon the elected members of that body that that always hasn't been true—

which was a reference to my facetious remarks with respect to advertising in political campaigns.

But what I wish to say here is that advertising has, in this particular instance, created what might be termed almost a monopolistic situation.

Now that is clearly, it seems to me, susceptible to the interpretation which I placed upon it, that Mr. Ephraim was objecting to advertising per se, and then Mr. Montgomery, in the second column, says:

Mr. MONTGOMERY. Let me get it clear. Then, in order to compete, you must, as I understand your testimony, be able to do two things. You must be able to expend a great deal of money for advertising, considerably more capital outlay than is required to set up your factory and produce the product, and in addition you must sell it on some basis that you call sales appeal, which is not related to the actual quality or use of the tooth paste.

I could read a lot more to the same effect and I could read the answers to the questions propounded by Mr. Ballinger, in response to which the witness acknowledged that there was no uniform ownership among these other 10 companies.

So it comes down to this, in my judgment: False advertising and advertising. Nobody can complain about an attack upon false advertising. We all will agree upon that. But it seemed to me that the testimony of this single witness was certainly open to the inter-

pretation which the chairman put upon it, and because I put that interpretation upon it I wanted this record to be clear that it was not your policy in bringing these witnesses here to make an attack upon advertising per se, and I understand that to be the position which you now take.

Mr. MONTGOMERY. That is right. I think Mr. Ephraim again and again in his testimony stated that he was not making an attack upon advertising. I think you do find that inconsistent with the things he said.

The CHAIRMAN. Oh, yes; in response to the questions I propounded, he made that answer.

Mr. MONTGOMERY. I think you find that inconsistent with the things he said. and he doesn't. I think his position is that advertising is all right if there is another basis in addition upon which a manufacturer can get his product through and offered to the consumer, namely, some standard description of the goods. In any event, I think that is the position generally of consumers, and that is the reason for summarizing under the head of "Advertising" what seems to me to represent the consumers' position with respect to advertising generally.

The CHAIRMAN. That consumers should be protected against false advertising I think everyone will agree.

Mr. MONTGOMERY. And in addition that they need information about commodities which ordinarily, and as illustrated by numerous exhibits and testimony here, they do not get from advertising.

The CHAIRMAN. Of course.

Mr. MONTGOMERY. They need something else in the way of facts if they are going to be ever able to make sensible purchases to meet their own needs.

The CHAIRMAN. Are there any other comments?

Then we will close this phase of the hearing, and let me say in closing, Mr. Montgomery, that I think the committee is very much indebted to you for a very lucid presentation of the problem.

Mr. MONTGOMERY. Thank you, Mr. Chairman.

The CHAIRMAN. We are recessed until the call of the chairman.

(Whereupon, at 3:40 p. m., an adjournment was taken pursuant to the call of the chairman.)

APPENDIX

EXHIBIT No. 503

A PROPOSAL FOR AN INVESTIGATION TO ANALYZE THE WAYS AND MEANS BY WHICH CURRENT PRACTICES, AND HOW FAR THESE PRACTICES, LEAD TO UNDERCONSUMPTION, INADEQUATE RETURNS TO FARM AND FACTORY WORKER, AND TO BUSINESS BANKRUPTCY

[This Investigation to be conducted by a joint committee which is to be appointed one-third by the President of the Senate, one-third by the Speaker of the House, and one-third by the President of the United States]

Submitted by a delegation of consumer, civic, and labor representatives under the sponsorship of the Consumers National Federation, 110 Morningside Drive, New York City, February 24th, 1938.

All our national life we have put our faith in production as the road to public welfare. We have studied production and set up federal agencies to further it. Today we have a productive system that is the envy of the world. It can do much—but it does not create sustained welfare. In our concern for production we have allowed it to exploit consumption and, in the process, to cripple its customers for whom, and for whom alone, it confessedly exists.

So exclusive has been our emphasis upon production that we have believed consumer welfare to flow automatically from business prosperity. We have neglected largely to ask: How effectively do our elaborate productive and merchandising structures really serve the consumer? We know today virtually nothing with accuracy as to the scores of points at which "business competition," "monopoly," "administered prices," and other routine aspects of business and financial processes cripple the consumer. In a democracy no economic system makes sense which is not run so as to maximize consumption. Yet our economic system is primarily run to maximize profits—and the consumer takes the hindmost. The underlying assumption has been that "free competition" affords the best possible protection to the consumer. Actually, no candid person today pretends that "free competition" controls our economic life. Such competition as does remain is dwarfed by the price and other control policies and devices of dominating elements in the business community.

No one knows precisely how free or un-free our economy is. What we know is that there is a network of arbitrary interference with competition whereby production is rendered wasteful and insufficient, and consumers—if indeed they are lucky enough not to be unemployed—pay tribute to it in the form of a sizeable deduction from their purchasing power.

The long-run test of "business efficiency" is the kind of living it can build for the public, for whom business patently is run. A major need at present is to put current business under the microscope to ask: How does it operate and, operating as it does, how and where does it promote or curtail the welfare of our people who live by it and its products?

We believe that a major investigation by a special commission should be set up to analyze how current business structure and practices lead to underconsumption, inadequate returns to farm and factory workers and to recurrent business bankruptcies. Not until such a detail analysis is available can effective remedial legislation be planned in the public interest. Furthermore, this understanding is essential if court action against monopolies is to be more than a temporary palliative. Until such knowledge is available to the public, the goal of self regulation of their economic destiny by the American people is impossible. Self-regulation at a round table must include self-regulation by the whole people through government participation. Government can only plan an effective role if its policies are based upon an understanding of what is wrong and what needs to be done. The consumer can only play an intelligent

role at that table when he knows the facts and how they affect him, and he is powerless to collect these facts himself.

One thing should be made unmistakably clear: We want all the abundance that lies within our grasp, but we do not want that abundance to be wrung out of sweated labor or dispossessed farmers. American abundance means abundance for all the people.

We suggest that such an investigation be carried on by a thoroughly staffed special commission, one-third to be appointed by the President of the Senate, one-third by the Speaker of the House, and one-third by the President of the United States.

EXHIBIT No. 504

[From the Journal of Marketing, July 1938, pp. 4-5]

Recently an estimate was made by the Crowell Publishing Company that more than 5,000,000 women in various organizations are affected by consumer educational material and are more or less active in efforts to secure legislation favorable to consumers. These organizations are as follows:

| | <i>Approximate membership</i> |
|---|-------------------------------|
| Women's Joint Congressional Committee consisting of— | |
| American Association of University Women..... | 55, 000 |
| American Dietetic Association..... | |
| American Federation of Teachers..... | |
| American Home Economics Association..... | 12, 000 |
| American Nurses Association..... | 131, 000 |
| Council of Women for Home Missions..... | |
| Girls' Friendly Society of the U. S. A..... | |
| Medical Women's National Association..... | |
| National Board of the Y. W. C. A..... | |
| National Congress of Parents and Teachers..... | 1, 877, 073 |
| National Consumers' League..... | 3, 000 |
| National Council of Jewish Women..... | 48, 000 |
| National Education Association (several hundred thousand). | |
| National Federation of Business and Professional Women's Clubs..... | 62, 000 |
| National League of Women Voters..... | 48, 000 |
| National Service Star Legion. | |
| National Women's Trade Union League. | |
| Women's Homeopathic Medical Fraternity. | |

The group of women making up the membership of this committee is one of the most potent organizations in the country in obtaining the support of women's organizations for legislation of interest to women.

In addition to these there are the following who may be moved to aid in securing action:

| | <i>Approximate membership</i> |
|---|-------------------------------|
| American Association for Adult Education..... | 1, 100 |
| Consumers' National Federation..... | |
| Federal Council of the Churches of Christ in America..... | 20, 000, 000 |
| General Federation of Women's Clubs..... | 2, 000, 000 |
| League of Women Shoppers..... | 25, 000 |
| National Council of Catholic Women..... | 1, 000, 000 |
| National Women's Relief Society..... | 69, 700 |
| International Garment Workers Union..... | 250, 000 |

It will be noticed some of these groups contain men and if full strength is given to all of them the number affected may reach nearly a third of the total population.

These groups are not yet as closely organized as they could be and therefore their effectiveness is not what it may possibly become. But even at the moment to treat the movement lightly would be a mistake. Members of many of these organizations are leaders in other organizations and as such may be powerful factors in canalizing consumers' thoughts along specific lines. As examples, Helen Hall, director of Henry Street Settlement in New York, is president of Consumers' National Federation; Mary K. Simkovitch, director of Greenwich House, has just been elected chairman of the newly formed Lower West Side

Congress for consumers, and Louis Waldman, a member of the New York State Executive Committee of the American Labor Party, is working strenuously for a Consumers' Bureau for the State of New York.

The first two movements are marked by consumer dependence on aid from outside forces to secure the desired ends. The next three movements are marked by direct action on the part of the consumer himself to secure changes in business conduct which might give him better goods for his expenditures.

"EXHIBIT No. 505" appears in text on p. 3292

"EXHIBIT No. 506" appears in text on p. 3296

"EXHIBIT No. 507" appears in text on p. 3297

"EXHIBIT No. 508" appears in text on p. 3299

"EXHIBIT No. 509" appears in text on p. 3300

"EXHIBIT No. 510" appears in text on p. 3302

"EXHIBIT No. 511" appears in text on p. 3315

"EXHIBIT No. 512" appears in text on p. 3317

"EXHIBIT No. 513" appears in text on p. 3321

"EXHIBIT No. 514" appears in text on p. 3324

"EXHIBIT No. 515" appears in text on p. 3334

"EXHIBIT No. 516," introduced on p. 3343, appears in Hearings, Part VI, appendix, p. 2745

"EXHIBIT No. 517" appears in text on p. 3348

"EXHIBIT No. 518" appears in text on p. 3350

"EXHIBIT No. 519" appears in text on p. 3355

"EXHIBIT No. 520" appears in text on p. 3357

"EXHIBIT No. 521" appears in text on p. 3358

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EXHIBIT No. 525

QUOTATIONS FROM TRADE PRESS ON RESALE PRICE MAINTENANCE

1. PRESSURE ON CONGRESS, AND PRESIDENT

There is ample evidence that druggists, through the National Association of Retail Druggists, have used a concerted campaign of pressure on Congressmen and the President in the form of legislative contact committees, and barrages of letters and telegrams in order to obtain passage of the Robinson-Patman, and Miller-Tydings Bills.

As early as October 1935 we find indications of the pressure machine that was being built up. Writing in the association's Journal for October 3, 1935, pp. 1223-4, Rowland Jones, Jr., its Washington representative, reported as follows on the formation of Congressional Contact Committees, which were to play an important part in druggists' lobbying activities.

"At the time of the opening of the present Washington office, a careful study was made of the methods used in the past in attempts to influence the legislative mind. After examining all the facts and the results obtained, we came to the inescapable conclusion that a new approach was not only in order but absolutely necessary if we were to expect results.

"With this opinion crystallized, we conceived the idea of the Congressional Contact Committees in every Congressional District and in every state. This was based on the theory that in every such political subdivision there resided several retail druggists who were close personal or political friends of their Congressman or Senator and that an appeal or a request from one or two such individuals would be of far greater value than a hundred letters or telegrams from persons unknown to the legislator.

* * *

"In many states the response was prompt and enthusiastic; in others half-hearted; and in some, I regret to say, negligible. But we did succeed in building up a list of some eight hundred names after eliminating a great many whom we found upon inquiry to be unknown to the specific legislator.

"These men have been asked from time to time to write their man in Congress on various legislation. From the start we realized that our first task was to educate the legislator in the problems which face the American independent businessman. This process has been slow but it has been extremely effective. There are many evidences of this in the record of the session just closed."

Pressure on Congressmen got under way in this month, when druggists were urged, in the Journal for October 17, 1935, p. 1274, to make it their personal business to see their legislators and to get their pledge to support the National Fair Trade Enabling Act, before they returned to Washington for the 1936 session. According to the Journal—

"This is a task that must be accomplished by individual druggists in their own home territories. These legislators are now at home, and their ears are keenly attuned to the things their constituents desire. Do not overlook the fact that every Congressman and at least one-third of the Senators are keenly aware of the fact that there will be an election in 1936—and this will make them particularly attentive to your message."

This was only the start of the widespread pressure campaign directed by the Association's Washington office to influence Congressmen. Representative statements taken from the N. A. R. D. Journal show the constant bombardment on Congressmen.

Ten days after the Fair Trade Enabling Act was introduced, druggists were warned in the January 16, 1936, p. 77, issue of the Journal, that—

"Officers and members of state and local associations and members of Congressional Contact Committees from these states should be prepared to use every influence at their command to bring to the attention of their Senators, the justice and the economic necessity for this legislation as soon as it is called for by the Washington office. * * * At least one thousand communications should be placed in the hands of each of these Senators [on the judiciary committee] when the call comes from Washington. No threatening statements should be included, but the letter should be written in the strongest possible language. Stress the plight of the small man in business and the fact that he is numerically supreme at the polls."

As soon as the Fair Trade Enabling Act was referred to the Judiciary Committees of both houses, J. W. Dargavel, executive secretary of the N. A. R. D., in an open letter to members published in the February 20, 1936, issue of the Journal pointed out that—

"N. A. R. D. members, and particularly those from states from whom these committeemen come, should concentrate their efforts upon members of the Judiciary Committees. A favorable report from these Committees will aid greatly in the passage of this bill. Write to these Committeemen today!"

When there was a prospect that the 1936 Congress would adjourn without passing the Tydings Bill, the 20,000 members of the N. A. R. D. were told, in the April 16, 1936, issue of the Journal, p. 480, to write—

"a letter or a telegram to each of their Senators and their Representative telling them to pass the Robinson-Patman bill and the Tydings-Dies bill BEFORE CONGRESS ADJOURNS. * * * We ask that you comply 100% with this request during the week of April 20 to 24."

The Robinson-Patman bill became law June 19, 1936.

Because of the failure of the 1936 Congress to approve the Tydings bill, the N. A. R. D. remobilized its pressure activities in the latter part of 1936 in an effort to open the way for passage of this bill in 1937. Referring to the reorganization of the Congressional Contact Committees on a county-unit basis, instead of a Congressional District basis, the November 5, 1936, issue of the Journal, p. 1552, points out that—

"On September 1 the N. A. R. D. asked the state and local associations, and the members of the Congressional Contact Committees to contact every candidate whose name appears on the ballot for election to the Senate and the House of Representatives. * * * We now ask again that every state and local association * * * select a qualified man in every county in every state to serve on the Congressional Contact Committees. * * * We further ask that when these county selections are made complete that an organized effort be made to contact personally every Congressman and every Senator upon the Tydings-Miller bill. The average Congressional District is not large. Usually they cover only four or five counties. Officers of state and local associations are urged to make this contact work their primary function during the next two months."

When Congress convened in January 1937, the reorganized Congressional Contact Committees were ready to place pressure on Congressmen on a nationwide basis. According to January 7, 1937, issue of the Journal—

"Forty-four states of the Union are now organized as never before in history for the purpose of furthering legislation. * * * We have the proper contact men in this country. They now number over two thousand. We are now asking that each of these 2,000 men form a committee of their own in their own local community consisting of ten other independent business men who will work and move as a unit when called upon by the N. A. R. D. Washington office."

As soon as Congress opened, the flood of letters commenced. The January 21, 1937, issue of the Journal, p. 124, reports—

"The first call went out January 15 when we asked every member of these committees to write their Senators and Congressmen asking early favorable action. * * * These letters are already coming in and based on the experience of the last two years, we know they will be effective. *Now we ask every member of the N. A. R. D. who reads this column to write his Senators and Congressman in the same manner.*"

In February another call was made for more letters and telegrams. Rowland Jones, Jr., writing in the February 18, 1937, issue of the Journal, pp. 278 and 282, pointed out that—

"On February 11 the N. A. R. D. Washington office mailed the accompanying 'Friends of Fair Trade' letter to over three thousand pharmacists. * * * This letter was designed to produce a flood of appeals to all members of Congress asking for early favorable consideration of this legislation and timed to come at the right psychological moment to have the greatest effect."

"Again we ask every loyal N. A. R. D. members to sit down immediately upon the reading of these columns and write again to the Senators and Congressmen and to repeat that performance *every week* until you are advised that this legislation * * * has passed the last barrier in the Congressional steeplechase."

Secretary Dargavel in another article in the same issue, p. 273, told the members what point they ought to include in their letters. He concluded his advice with the warning that—

"A constant barrage of letters and telegrams and letters should be kept going to your Senators and Congressmen until these bills are passed."

When the House prepared to vote on the Tydings bill in April 1937, the N. A. R. D. asked for another flood of communications. Every member was urged, in the April 1, 1937, Journal, p. 504, to send a telegram—

"regardless of previous commitments by your Congressman. The friends of this bill must be on the floor of the House when the bill comes up in order to insure the forestalling of emasculating amendments or other parliamentary tactics which would result in delaying the final vote."

President Roosevelt's request to Congress (April 26, 1937) that consideration on the Tydings-Miller Act be delayed resulted in a still further flood of letters to Congress, as well as to the President, and Postmaster James Farley. Under the heading "We Have Just Begun to Fight," p. 684, the May 6, 1937, issue of the Journal requested all members to—

"Write letters to your Congressmen and two Senators * * * advising them of your action in writing the President and soliciting their cooperation in convincing the administration that its fears of the effect of the Tydings-Miller bill have no basis of fact."

The pressure on Congress to obtain passage of the Tydings bill was only one part of the N. A. R. D. campaign, for the Association also found it necessary to use this same type of letter and telegram barrage on the President. Members were told not only to write themselves, but also to get their friends and their governors and state legislature to do the same. The N. A. R. D. had tried the letter-barrage method in 1936 when the Robinson-Patman bill was pending and Rowland Jones, Jr., asked the members (Journal, May 21, 1936)—

"to send a telegram to President Roosevelt urging him to redeem the pledge of the 1932 Democratic platform."

Rowland Jones had arranged for a similar barrage after passage of the Tydings-Miller bill. In a letter dated March 25, 1937, reported in the April 1, 1937, issue of the Journal, pp. 504-5, he asked the President and secretaries of all state pharmaceutical associations to—

"arrange, at once, for a committee to call upon the Governor of your State, at the proper moment, with the request that he communicate with the President of the United States, urging his prompt approval of the

Tydings-Miller bill. * * * You will receive a wire from this office upon the final passage of the bill by Congress and I suggest that you be prepared at that time to present the matter to your Governor with the shortest possible delay."

However, when the President asked for a delay in consideration of the Tydings bill, the flood of telegrams and letters were unloosed. The N. A. R. D., in its May 6, 1937, Journal, p. 684, asked members to—

"Write a letter to the President of the United States, respectfully requesting that he reconsider his action in delaying the Tydings-Miller bill.

"Write a letter to your Representatives in your state legislature, asking them to write to the President requesting him to reconsider his action."

The results of this appeal are summarized clearly in the May 20, 1937, Journal, p. 768—

"A flood of communications protesting this action by the President is flowing in upon the White House in unprecedented numbers."

* * * "To those who have cooperated, we ask that they continue to send letters to the White House in ever-increasing numbers in order that the public reaction in this crisis will be conclusive and overwhelming.

"Friends of Fair Trade in states whose legislatures are still in session are urged to have resolutions introduced and passed memorializing the President and Congress to approve the Tydings-Miller bill. We believe that such resolutions can be passed easily, particularly in the states which have already approved State Fair Trade Acts.

"Circulate petitions, in your city or town, addressed to the President, your two Senators, and your Congressman, urging the passage of the Tydings-Miller bill. (Be sure that these petitions conform to the legal requirements of your state)" (N. A. R. D. Journal—May 20, 1937—pp. 768-9).

* * * "Now, our chief concern is to get the President's signature on the bill, thus completing its course and making it a law."

* * * "Therefore I earnestly urge you to deluge the President with telegrams, urging that he sign the bill at once and make it a law" (N. A. R. D. Journal—Aug. 5, 1937—p. 1168).

The Tydings-Miller bill became law August 17, 1937.

2. LINING UP CONSUMER SUPPORT FOR FAIR TRADE

(Italics have been added in this section to those passages which refer to retail prices.)

* * * "It now appears that the druggist must enter another role of leadership—his drug store must become an outpost of political influence and education in his community."

* * * * *
 "The drug store is one of the focal points of the community. Almost every person in the vicinity visits the drug store at some time within each fortnight; many oftener; some daily. Because of the fact that the drug store is open evenings, when other businesses are closed and when people have more leisure, the druggist is placed in a particularly advantageous position to talk to his patrons. He has an unparalleled opportunity to put in his best lies for the fair candidates for office, and to take care of those who are unfair."

* * * * *

"If the individual druggists will take the trouble to do so, they can make their drug store a powerful factor in the political life of the community. If they will work carefully and consistently, they can develop a voter following that will mean something when candidates or incumbents are planning their policies. The druggist in most cases enjoys the confidence of the people. They will listen to him, if he will talk sense to them, and put the facts before them" (N. A. R. D. Journal, Jan. 2, 1936, p. 36).

* * * "That is the job that the druggist must undertake—to point out to the people in his community just how the advantages of Fair Trade legislation will be to their advantage, or its absence to their detriment" (N. A. R. D. Journal, Jan. 2, 1936, p. 36).

"I want to stress again the necessity for each and every one of you to fight this battle in your own home communities." * * * "Get the public ear; point out how the public would suffer if these monopolies are allowed to get a foothold; the advantages fair business methods would give to them" (J. W. Dargavel, N. A. R. D. Journal, Feb. 20, 1936, p. 189).

"No druggist can afford to be careless in the statements which he makes regarding Fair Trade, or regarding such price adjustments as may result from it. Whenever he is questioned regarding it by a customer, he must be quick to seize the opportunity to point out to the customer how Fair Trade will prove to the customer's advantage. Certainly, if he hasn't sufficient ingenuity to do that, the least he can do is to say nothing at all" (N. A. R. D. Journal, April 15, 1937, p. 595).

"In cities where mass meetings can be held, get other independent retailers or groups to cooperate in staging such a meeting. Get speakers who will emphasize the importance of the Fair Trade movement and clarify its beneficial angles to those who do not understand the meaning of the Fair Trade efforts. Play these meetings up and get out a crowd. Get each and every person attending these meetings to send a night letter to the President (N. A. R. D. Journal, May 6, 1937, p. 685).

"We cannot urge too strongly that you use extreme caution in using remarks that even tend to intimate that the fair trade laws are responsible for increases in prices. As a matter of fact, the tendency has been to level prices, and many are the instances of reduced prices to the consumer."

* * * * *

"In our opinion there is an intelligent answer to price complaints, and it is reasonable and honest. Let the retailer tell his customer that he used to have to sell this item below cost and overcharge on other items in order to make a living. Now, with price stabilization, it is true some items have increased a few cents, but that the prices on other items have been reduced (Druggist Circular, March 1938, p. 15).

"Consumer support, essential to any program for the furtherance of Fair Trade merchandise, in reality is not hard to win.

*"Handling the customer who complains that he or she is asked to pay more for an article than he or she has been accustomed to pay * * * calls for diplomacy—and every druggist not only should exercise such care himself—but should be certain that everyone in his store is thoroughly cognizant of the facts about Fair Trade and of the importance of exercising similar diplomacy."*

* * * * *

* * * "There are certain statements which should not be made. First of all, *avoid all reference to Fair Trade laws, legal or contractual obligations, unless the customer himself brings them up.* The principles which are fundamental to the Fair Trade movement are deep, and for an unformed customer to fully understand them would require a lengthy explanation which might lead to an argument—and no one ever wins an argument.

"Courteously point out that you believe the price is to be as low or lower than that charged in other stores. You believe that it is the lowest price at which this particular brand and quality item can fairly be sold."

"Another suggestion which has merit, is: 'Yes, we have sold this item cheaper—in fact, below our cost—to meet the unfair competition of some stores who formerly used a low price on this item to lure people into their stores. They offered you those prices, not because they made a profit on the sales, or because they wanted you to benefit—but to try to sell you some other products at exorbitant prices. This method of deceiving you as a customer has largely been discontinued. Therefore, we are offering you this quality merchandise at the lowest price which we believe consistent with fair value—and, I believe, as low or lower than that for which anyone else will sell it.'"

"If the subject of Fair Trade is raised by the customer, it calls for another tactful treatment, and one which should be as brief as possible.

"Yes; this item is priced in accordance with the methods permitted by the state Fair Trade law. Fair Trade permits us to offer this merchandise to you at the lowest price which is consistent with the product's quality, and the cost of distributing it to you. It sometimes has been sold below cost; but I believe that you will agree that this practice is unfair, and that in the long run it was unfair to you, too; because in order to make up for the loss, something else had to be sold at too high a price. We believe in offering everything we sell at as low a price as good business practice will permit for an item of this quality."

* * * * *

"May we point out that these are suggestions only: Be sure to give this problem your careful attention, and to school your salespeople in tactful and diplomatic relations with customers" (N. A. R. D. Journal, June 16, 1938, p. 42).

3. LINING UP NONDRUGGIST MERCHANT SUPPORT FOR FAIR TRADE

* * * "Druggists must do their best to convince these men, and must actively enlist the cooperation of their fellow merchants—hardwaremen, grocers, and others—to demonstrate that they, too, are behind Fair Trade legislation" (N. A. R. D. Journal, Oct. 17, 1935, p. 1274).

* * * "How many of you are pointing out to the butcher, the baker, the grocer, the hardwareman, and others in your community, the benefits that will accrue to them if this Fair Trade legislation is passed? How many of you are pointing out to the small dry goods dealer the fact that it is to his benefit to align himself with the Fair Trade program, rather than with the bosses of Big Business?" (N. A. R. D. Journal, Jan. 16, 1936, p. 68).

* * * "We have asked each of the twenty-two hundred fifty members of these (Congressional Contact) committees to set up their own local committee in their own community, consisting of ten other independent retailers who will amplify their activities when calls for action come from Washington" (N. A. R. D. Journal, Jan. 21, 1937, p. 124).

* * * "I am bold to ask that you send, at once, a fifty-word night letter to your congressman and each of your Senators, requesting that they act at once to secure the final favorable consideration for this legislation at the earliest possible moment. I also suggest that you get retailers in other lines to sign this telegram with you" (Rowland Jones, N. A. R. D. Journal, Feb. 18, 1937, p. 278).

"GET EVERY INDEPENDENT BUSINESSMAN IN YOUR COMMUNITY—WHATEVER HIS LINE—TO SEND A WIRE OR LETTER AT ONCE TO THAT SENATOR OR CONGRESSMAN, TELLING HIM TO USE EVERY EFFORT TO SECURE A FAVORABLE REPORT TO HIS HOUSE ON THESE BILLS. (Do this at once!)" (N. A. R. D. Journal, Mar. 4, 1937, p. 344.)

4. POLICY OF (A) BOYCOTTING MANUFACTURERS AND NEWSPAPERS UNFAIR TO FAIR-TRADE LAWS, (B) MAINTAINING WHITE LISTS FOR COOPERATING MANUFACTURERS, AND (C) COERCION ON MANUFACTURERS AS TO MARK-UPS AND CONTRACTS

"A boycott of the products of manufacturers who do not use and enforce fair-trade contracts, and exposé of manufacturers who are 'secretly allied' with R. H. Macy & Co., and a concerted effort to fight private brands, were threatened by druggists at the militant fair trade victory meeting held in conjunction with the convention of the New York Pharmaceutical Council at Hotel Pennsylvania, New York City, recently" (Drug Trade News, April 26, 1937 (Page 1)).

"Following a mid-January mass meeting, druggists of the New York metropolitan area seemed likely to clear their shelves of items manufactured by five leading national manufacturers." * * * "To inject action into the meeting, in place of talk, the younger element among the druggists 'tossed out' the 'old guard' and replaced them with younger leaders headed by George Gottesman and Leo Branche, according to reports."

"Simultaneously with the suggested removal of products of the five banned manufacturers from their shelves, according to Drug Trade News, the retailers launched an attack on two New York newspapers, the Times and the World-Telegram. In their news and editorial columns, it was charged, these newspapers have been antagonistic to the Fair Trade Law." * * *

"Speaking for himself, he (Gottesman) named five manufacturers whose products he intended to discontinue to carry 'until the five manufacturers learn that I cannot go on losing 10¢ or more on their products while they are making fortunes.' He also listed seven manufacturers as fair, and urged the druggists to give them every bit of cooperation possible—not just lip service" (N. A. R. D. Journal, Feb. 6, 1936, p. 146).

"Perhaps the question most often asked in discussions of price stabilization, fair trade legislation, and the like, is will the retail druggist actually support the manufacturer who 'plays ball' with him or will he use the manufacturer's sales policy as an umbrella to protect sales of unknown brands of merchandise. Just what can the druggist do and what will he do in support of a manufacturer is the question of second frequency.

"Pages of theoretical consideration could be written on this subject and yet not be as convincing as the program which the druggists of the State of California are now putting into effect to demonstrate their support to the Dr. Miles Laboratories, Inc.

"A month or two ago the Southern California, Northern California, and California State Pharmaceutical Association invited the Dr. Miles California Company to participate with them in staging a Dr. Miles Week as a testimonial of appreciation of the company's stabilization efforts under the fair trade act of that state" (Druggist's Circular, Jan. 1935, p. 42).

"A recommendation made by Everett E. Duncan, of Oklahoma City, retiring president, that a list of manufacturers who are cooperating with dealers in various states having fair trade laws be carried continually in the association's (Oklahoma Pharmaceutical Association) official publication, was adopted as a resolution." * * *

"Stand pat for the 33⅓ percent margin of profit which is strongly advocated by the national association. Even though fair-trade legislation is passed, the chains would still have a 16 percent advantage for buying direct and would still have their hidden discounts unless an anti-discrimination bill is passed such as that represented by the Patman bill" Drug Topics, May 18, 1936).

(The 1935 N. A. R. D. Convention) "adopted as the principle for the guidance of members in their support of manufacturers the stabilization of prices, discounts, and profits to assure the efficient individual retail druggists at least 33⅓ percent margin from suggested minimum selling prices; commended the retail druggists of California for their constructive work along fair-trade lines and for their handling of the Pepsodent case involving withdrawal of contracts" (Druggist's Circular, October 1935, p. 41).

"Stabilization of prices, discounts, and profits to assure the efficient small individual druggist at least 33⅓ percent margin on minimum selling prices.

"Toward this end your Association (N. A. R. D.) has been active during the year. Countless conferences have resulted in the adoption of many new sales policies by manufacturers, some perhaps still short of the stated objective, but at least headed in the right direction. When the retail druggists of the nation join their Association and give it their full support, not only in their individual interest but in the interest of all—the power of the Association to bring about these changes will be greatly amplified. The solution of this lies to a great extent in your hands—increase your Association's numerical strength and carry out its suggestions" (Report of Executive Committee, N. A. R. D. Journal, Sept. 22, 1936, p. 1298).

"* * * in the drug and cosmetic fields many manufacturers are being compelled to operate under these laws against their wishes and better judgment. Pressure is being brought to bear through the retailers' associations and their fair-trade committees.

"Manufacturers who do not file minimum prices are having their troubles with independent outlets in some States. Those manufacturers, such as

ourselves, who have filed prices have had to set higher minimums than they desired in some instances. The committees are not permitted, supposedly, by law to dictate what the minimum prices shall be but they are doing just that by refusing to approve contracts containing prices which do not give the retailer what they consider to be a fair-profit margin. In most cases the committees are insisting on a mark-up of at least 20 percent and usually 33½ percent" (Printers' Ink, vol. 180, No. 9, August 26, 1937, p. 6).

"Fair-Trade Committees, composed of independent retailers for the most part, have been organized and the manufacturer who wants to avoid trouble will work through these groups. Some of these committees, particularly in the drug field, have copies of model contracts which bear their official approval. Members of the retail associations which these committees represent may refuse to sign any contracts that do not carry the official approval of the committees. This usually means that manufacturers with nonconfirming agreements may have difficulty in getting cooperation and their sales may start sliding down. * * *

"Not only is the Illinois Pharmaceutical Association, through its Fair-Trade Committee, scrutinizing manufacturers' agreements and awarding its stamp of approval as to 'form' but it is also actively campaigning against manufacturers who have failed to file minimum prices under the State law. As a part of the campaign, six meetings have been scheduled in various parts of the State to 'let Illinois druggists know who their friends are and their enemies, too'" (Printers' Ink, vol. 180, No. 8, August 19, 1937, p. 80).

"A poster containing the salutation, 'Good Morning! Fair Trade,' and listing the names of manufacturers and wholesalers under fair trade contract in the state, has been mailed to every druggist in California by the fair trade committee of the California Pharmaceutical Association.

"The poster also contains four reasons why druggists should support the firms listed. A resolution requests them to place the poster in a conspicuous spot in their stores, so that it may be referred to daily."

* * * * *

"Louis J. Fischl, president of the state association, whose picture appears on the poster, said: 'We believe the poster will serve to awaken the druggist to the need of cooperating with those firms who give him a fair margin of profit. It also gives recognition to these firms, and in this way promotes the cause of fair trade.'" (Drug Trade News, August 16, 1937, p. 2.)

"I shall quote from the August 28 issue of BUSINESS WEEK: 'Most importantly, it set up the National Association of Retail Druggists as a power which in three short years was to roll up a record of accomplishment unmatched by any other pressure group in the country's history.' BUSINESS WEEK states further: 'Having won the resale price maintenance fight in the face of the most overwhelming obstacles, the National Association of Retail Druggist is entitled to take rank as the Nation's most powerful trade association today.'"

"During the last twelve months, the N. A. R. D. has become even more firmly entrenched as the national spokesman of American pharmacy in its commercial aspects. The prestige of the N. A. R. D. in Washington and in the Congress has continued to grow until we have at last reached the time when the office of every Senator and every Congressman is open to the representatives of the N. A. R. D., as well as every department of our national government." (Report of the Secretary by John W. Dargavel, N. A. R. D. Journal, Oct. 7, 1937, p. 1632.)

"EXHIBIT No. 526" appears in full in the text on p. 3382.

"EXHIBIT No. 527", introduced on p. 3383, is on file with the committee.

"EXHIBIT No. 528", introduced on p. 3383, is on file with the committee.

"EXHIBIT No. 529", introduced on p. 3383, is on file with the committee.

"EXHIBIT No. 530", introduced on p. 3384, is on file with the committee.

EXHIBIT No. 531

[Program and Report on Public Relations for the Institute of Distribution, submitted by Miss Persia Campbell]

FOR THE CONFIDENTIAL ATTENTION OF MR. ———

Herewith, a copy of the Program and Report prepared in accordance with the following Resolution, offered by Mr. Ward Melville, President of the Melville Shoe Corporation, seconded by Mr. F. G. Coburn, President of the McLellan Stores Company, and unanimously approved by the executives of the 25 companies represented at the luncheon-meeting of the Institute of Distribution, held at the Hotel Astor, New York City, on November 30, 1936.

"That the Managing Director of the Institute of Distribution be and hereby is instructed to prepare a detailed, comprehensive program of public relations for the direct distributors of America * * * and, as well data and budget suggestions estimating the probable costs of various alternatives therefor * * * In addition to, and in expansion of, the initiating program of consumer contact placed before and endorsed by this meeting * * * and that said all-industry public relations program, when completed, be referred for action to a future meeting to be called at the invitation of those present at this November 30 meeting and to be extended, on their behalf, to any other executives of companies in direct distribution who, though absent from the instant meeting may, nevertheless, be sufficiently interested to attend."

The meeting to discuss the vital problem underlying the above Resolution—and the data and planning prepared in response, to it—will be held on Monday, March 15, 1937, in the East Ball Room of the Hotel Astor, New York City, starting promptly at 10 a. m. Luncheon will be served at 1 p. m. The meeting will end at 3:30 p. m., if it has not previously ended, thereby permitting the executives going out of town to make train connections, and local executives to keep necessary appointments.

In the belief that "taking a few hours time out" to consider this problem that so vitally affects all direct distributors will pay real dividends, you are invited by the 25 direct distributors concurring in the above Resolution to meet with them at that time, and to luncheon with them, for a frank and open discussion of the subject.

The purpose of the meeting is primarily to provide an interchange of ideas. Accordingly the attached summarized—and also detailed—analysis of the material brought together in response to the foregoing Resolution is offered merely to supply an initial basis for discussion.

It comes to you *now* so that you may have an opportunity to go over it before the meeting.

SUMMARY

This Outline of Direct Distribution Public Relations—with the Consumer Speaking is based on these four fundamentals:

One. That a public relations program, like all selling, is most effective when built around some compelling theme—service to consumers of modest incomes being the outstanding one in the case of Direct Distribution.

Two. That the case for Direct Distribution is most effectively stated in terms of consumer interest instead of company or trade statistics and arguments.

Three. That service to the consumer provides Direct Distribution with a case so undeniable and so irrefutable, that it can be relied upon without hesitation or qualification.

Four. That any effective program of public relations involving an entire industry, and particularly an industry made up of trades with varying characteristics—as is the case with Direct Distribution—requires both a *centralized* handling of certain activities that can be most economically done *jointly*, and a bringing-together of qualified executives in a position to obtain decentralized action thereby calling into harmonious play at least the larger

companies' tremendous opportunities to create and strengthen improved public relations.

The Outline then undertakes to satisfy these fundamentals with:

One. A national consumer organization.—The League of Women's Buyers and Taxpayers—made up of women representing homes with incomes of \$2,500 a year or less: the women who predominately support Direct Distribution and handle the expenditures of the majority of all consumers.

Two. A national consumer rallying point—*Consumer Foundation, Inc.*

Three. A national consumer mouthpiece or voice—"Consumers News," or any similar publication acting for the consumer organizations mentioned above, and, as well, all other suitable consumer organizations or related organizations.

Four. A facilitating organization to handle these steps which can most economically be done jointly: *The Institute of Distribution, Inc.*

Five. A committee intended to bring together qualified executives of the larger companies and representatives of all other interested concerns, organizations, and individuals.

Six. Detailed suggestions for public relations activities of the usual sort, but with opportunities to utilize the consumer angle, in order to gain greater effectiveness, indicated.

Seven. A plan such as would undoubtedly be necessary for immediate operative purposes is also presented.

A plan for the customary steps in a public relations program would not be a contribution of any unusual importance. Many organizations and individuals are available with extensive technical experience in such work.

If, however, the public relations program for an Industry, particularly an Industry made up of trades with varying characteristics, and a public relations program built around a central theme that will give it real punch, call for more than the usual company public relations program, the following suggestions may at least prove challenging to those who feel that the time for speaking out on behalf of Direct Distribution—for energetically placing its case before those whose verdict counts—is already long overdue.

WHEELER SAMMONS,
Managing Director, *Institute of Distribution, Inc.*

I. THE PROBLEM FACED AND THE OBJECTIVE SOUGHT IN THE CONSUMER BACKGROUND WORK

The immediate problem involved.—To develop a method for effectively interjecting the consumer into the *discriminatory tax legislative situation*, particularly in states, and particularly in a manner counteracting the physical appearance before committees and legislative sessions of middlemen or independent merchants in numbers and groups.

The underlying objective.—To provide a tangible basis for gauging and testing the practicalities of widespread *consumer mobilization* and continuing *consumer education*, and the possible reactions thereof on national legislation.

II. THE PRELIMINARY CONSUMER BACKGROUND STEPS ALREADY TAKEN

1. Door-to-door surveys were made in a number of typical communities in a variety of selected localities.

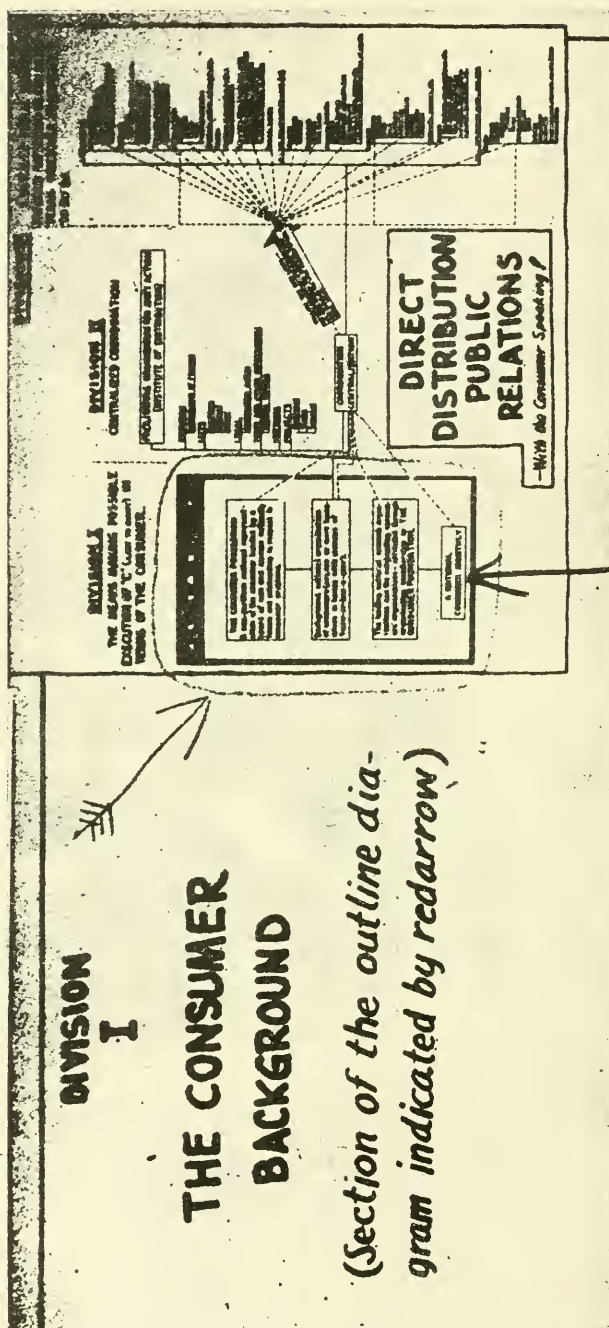
2. These surveys demonstrated:

a. That consumers predominately favor Direct Distribution and find it satisfactory (except, of course, those in competition with chains or connected with middlemen—about 20%);

b. That consumers, unless so informed, do not understand that discriminatory taxation penalizing Direct Distribution is levied on direct distributors' outlets only, and therefore may become a tax and a higher living-cost element falling on them;

c. That consumers are keenly responsive to the "pocketbook nerve"—regulatory measures and discriminatory levies which become hidden taxes; savings in buying; restrictions on distribution which raise living costs—and welcome facts thereon;

NOTE.—The door-to-door checkings revealed an 81% (over-all average) approval of Direct Distribution. Even the lowest percentages among those averaged—53% for a community in which the local independent merchants had



been carrying on an intensive anti-direct-distribution drive and 47% in California after the passage of the discriminatory retail tax law—were just above or very little below the 50% line, showing that a very slight degree of direct and effective consumer education was required to put the percentage well over 50%. As to taxes that might affect their living costs, consumers were found to be even more antagonistic—but of course they must be warned of specific instances.

d. *That women are more responsive than men to the subjects mentioned in (c) above, and particularly the housewives buying for homes with \$2500-or-less-a-year—the homes which account for over 75% of the consumers and even a larger percentage of the nation's purchases of necessities, and the homes almost all of which trade more or less with direct distributors' and their outlets.*

3. Based on the above, experiments were undertaken to find out whether or not housewives in the \$2,500-and-less-a-year group could be singled out in sufficient numbers to:

a. *Establish the background necessary to make effective the appearance of selected housewives typical of the \$2500-or-less-a-year group before legislative committees and meetings of state legislators—and*

b. *If the selected groups to so appear could be obtained.*

4. These experiments were finally centered on the formation of a state group of women of \$2,500-a-year-or-less households as the League of Women Buyers and Taxpayers—this to be, in other words, the background mentioned in (3-a) above—which would have as its stated purpose, consumer education on the subjects mentioned heretofore in (2-c), of course on a nonpolitical and non-sectarian basis. Because it was felt wisest, during the formation of the grouping, to lead up to specific discriminatory taxation and restrictive distributive regulations through broader tax and cost-of-living matters, general hidden tax and cost-of-living indirect taxation, as well as state and local governmental costs, were used to supply the detailed matter necessary to the routine involved.

5. This initial state experiment was successful to the extent that it demonstrated:

a. *The background availability of housewives in the particular group selected and at a cost within reason;*

b. *The availability of selected housewives for appearances made logical and effective by the group background.*

6. The state experiment was next attempted on a national basis, and as a result it was:

a. *Confirmed that a national duplication—The League of Women Buyers and Taxpayers of the Nation, Inc.—of the state results was possible at better than estimated costs.*

7. The continuation of the above activity toward a national background sufficient for actual use *In Connection With the Original Objectives Listed* has been more successful than anticipated. It is apparent that an adequate initial level—200,000 or thereabouts as members of the national league—will actually be obtained early in 1937.

This 200,000 membership listing is national throughout the 48 states, the District of Columbia, and the Hawaiian Islands. This is considered sufficient to provide the necessary starting background for the direct work which is the final objective.

Experience to date demonstrates, however, that it can be expanded to direct membership listing of any size desired up to several millions at approximately \$6,000 per 100,000 direct cost—aside from overhead—and \$10,000 per 100,000 per year servicing on a satisfactory minimum basis. (There are over 6,000,000 consumers, of the type involved, available in organized form of one sort or another for direct or indirect extension work.) Indirect expansion (that is, through other organizations in bulk) is available in almost any quantity desired at merely whatever servicing expense it might be decided to involve.

The actual state split-ups of the 160,000-odd members affiliated with the league as of November 4th of last year demonstrate a continuous and progressive growth of such memberships in every state in which a league division existed.

The current 200,000 membership of the League is *the starting background* necessary to effective direct state consumer appearance against discriminatory legislation, as mentioned above as a primary objective. It is also a starting point for other consumer activity of various sorts, if and when undertaken.

WHAT THE 200,000 LEAGUE MEMBERSHIP IS—WHAT IT IS NOT

It is no more than that *background*, for it was the establishment of such a background which alone is involved in the undertaking.

However, it is more than a mere listing—each individual is of a certain definite type, and each has signed an application, received detailed evidence of acceptance, and been serviced with initial cost-of-living and budget-pocketbook material to which response has been satisfactory, as well as participation in various contests, etc.—even the response to requests for legislative action by mail has been tested, as well as arranged physical appearances of selected numbers.

This is equal to, or in excess of, membership relationships in many of the most widely known national organizations, except that a paid publication has not been interjected, as is done in some instances, although it is felt one could be if felt desirable.

IT IS NOT THIS, HOWEVER

However, it is not advanced that a membership in the sense of stated meetings or the marshalled mobility of a trades union, or anything of that sort, is involved. That degree of organization was not contemplated as a part of the initial background needed for direct consumer appearances against discriminatory legislation, and extension to that degree, and as well to the deeper education of consumers on direct distribution, and similar questions, are taken up in the suggestions.

AN ADDED RESULT OBTAINED

An important additional result has been established as a result of the above undertaking. The principals of the various "fraternal" insurance and similar organizations, found to be so prevalent among the class of consumers in the undertaking, were interested (over six millions of members). As a result these groups have been uniformly interested in the work and its objectives, and have cooperated wholeheartedly.

As a result of this cooperation, and in the natural course of segregating consumers, there has come into the files as active cooperators in the work, a list of those housewives who have been outstandingly effective in building up, throughout the country, the small study and social groups forming the heart of the vast organization of millions connected with the mutual insurance of women and children. These housewives are the "key" workers of that movement, and can likewise become the "key" elements at a nominal cost in any legitimate referenda petition signature work, the sale or distribution of a consumer periodical carrying membership, or any other task involving production of definite results.

These "key" women numbered 836 on November 4, 1936, and will probably number around 1,000 early in this year. It is believed that no similar list has previously existed outside of the organization circles mentioned, and that it can be used constructively, to the mutual advantage of consumer protection and those on it. A map showing, graphically, the locations of the 836 housewives on this list on November 4th, of last year is to be found in the envelope on Page 2 of this booklet.

SUGGESTIONS FOR FUTURE WORK

As following figures show, it is suggested that the work be carried forward to both actual tests of effectiveness in connection with (1) state legislative discriminatory proposals and (2) in the direction of feeling out the usefulness of giving the consumer a real voice and a degree of sound protection on regulations and legislation restricting the direct flow of distribution from producer to sale at retail.

ADDITIONAL DEVELOPMENTS

Developments under (2) above involve new work. It is suggested that the following be specifically considered:

(a) The establishment of *The Consumers Foundation* (this is being incorporated).

The Consumers Foundation would be headed up by a small board of leading economists, distributive experts, outstanding women, and others interested in the

DIVISION I

THE MEANS MAKING POSSIBLE
EXECUTION OF "C" (LAST TO RIGHT) IN
TERMS OF THE CONSUMER.

THE VOICE OF THE CONSUMER

THE CONSUMER FOUNDATION

A non-partisan national representation of the consumer headed by a board of men and women nationally known and outstanding in respect to consumer problems

Background national organization of consumers (250,000 or more housewives in homes with incomes of \$2500-or-less-a year).

The leading national women's organizations and the outstanding consumers' organizations- affiliated through organization membership in THE CONSUMER FOUNDATION

A NATIONAL
CONSUMER MONTHLY

DIVISION II

CENTRALIZED COORDINATION

FACILITATING ORGANIZATION FOR JOINT ACTION (INSTITUTE OF DISTRIBUTION)

RESEARCH

Interchange of figures

LISTS

Suppliers
Official
Other

LEGAL

Cooperative action

TRADE AND OTHER INFORMATION

Teletype service

MEETINGS

PROJECTS

National
State
Special

COORDINATION
CENTRALIZATION

**DIRECT
DISTRIBUTION
PUBLIC
RELATIONS**

-With the Consumer Speaking!

RELATIONSHIPS

with communities
Community action
Trade local factors
Identify community betterment
Charities, church groups, etc.

Employees

Managers
Retail sales forces and others
Community cooperation
Legislative cooperation
Consumer cooperation

Producers and suppliers
Legislative cooperation
Marketing cooperation

Office holders

Executive
National
State
Other
Appointive and other

Publishers, writers, columnists, etc.

Boards

Meetings of legislative bodies
Consumer delegations

Group handling legislative work
Supplying delegations of consumers
Supplying experts for hearings
Supplying briefs for hearings
Supplying literature and facts

Property owners

II THE PRINTED WORD THE EYE

The press
Clip sheets
Releases

Periodicals
Articles
Clip sheets

Company facilities

Staffers
Country, localities
Wardens and other displays
Boards for ads
Plans for home organs, etc.
Advertisements for various types of need

Special

Literature
National
State

Local
Suppliers
Consumers

Advertisers
Advertisers

Advertisers - new organs, etc.

For legislative group meetings, etc.
For legislative meetings
Commercial news releases
General movie plans, etc.

III - THE SPEAKING WORD - THE EAR

Radio

National
Special
Programs

National
Local
Commercial programs

Political
Social
Commercial

Other

Dealers
Marketers
Leatheries
Consumers and women's groups, etc.

consumers' welfare. The direct distributors initially founding the Foundation would be represented on this Board, but would not dominate it, although contributions would effectively, in fact, control the existence of the Foundation, admittedly. The Board would pass on the publications of the Foundation and its publicity releases.

Although the Foundation would, at least initially, involve no staff or other expense than its charter and provision for periodic meetings of the Board, its organization could of course be expanded to any degree found effective. The Board, once contributions had been made to its work, would have control of them. The 200,000 initially in the League, and future members of it or any similar organizations that might be undertaken, would automatically become affiliated with the Foundation, but on the present program of objectives, namely:

(a) To bring home to the average consumer—the customer of direct distribution—as forcibly, fearlessly, and effectively as possible, the advantages of direct distribution and the inevitable effect on the consumer's pocketbook and the cost of living if it is penalized and handicapped by law and legalized arbitrary trade practices.

(b) To interest and educate consumers in discriminatory taxation, laws, legalized fair trade practices and governmental or trade regulations affecting the cost of the things they buy.

(c) To interest and educate consumers in actual-example facts and pocket-book figures on the most economical and the least wasteful methods of production and distribution.

(d) To interest and educate consumers in judging value and quality in consumer goods.

(e) To aid and assist consumers in organizing to the end that they may have a voice and exert effective representations in respect to legislation and trade practices which affect their living costs.

(f) To aid and assist consumers in interchanging ideas and experiences on legislation, methods of production and distribution, and trade practices which affect their living costs, either by means of the printed pages, conferences, meetings, debates, study groups, or other effective channels.

(g) To aid and assist consumers to form intelligent and united groups to take such action as may be deemed by them wise or expedient on proposed or impending legislation affecting their interests in the distribution of merchandise and the cost of living.

(h) To aid and assist consumers to use greater knowledge of the most economical and effective trade practices and methods of production and distribution constructively in their own interests and the interests of the Republic.

"EXHIBIT No. 532", introduced on p. 3387, is on file with the committee.

"EXHIBIT No. 533", introduced on p. 3388, is on file with the committee.

"EXHIBIT No. 534", introduced on p. 3393, is on file with the committee.

"EXHIBIT No. 535", introduced on p. 3393, is on file with the committee.

"EXHIBIT No. 536", introduced on p. 3394, is on file with the committee.

EXHIBIT No. 537

[Memorandum proposing a Consumer Agency in the Federal Government, submitted by Miss Persia Campbell]

The interests of labor, business, and agriculture are each represented in the central administration of our government. The consumer has no comparable representation. The bargaining positions of labor, of farmers, and of capital are strengthened by organization and by legislation. The growing complexity of our economic life leaves the consumer in a progressively worse bargaining

position. Only an expert can judge the relative worth and value of goods made by new techniques and processes. A vital factor in the present lack of balance in our economic life is the resulting relative incompetence of consumers as theoretical equals in the market place. The wage-earner's or farmer's bargain for his income is of little or no avail if his wife's bargain over the counter is ineffectual.

A central consumer agency in the Federal administration is vitally needed. Several departments now have bureaus which afford limited types of assistance to consumers, but none takes into account, nor do they collectively take into account, the consumer's total position. A central service agency for consumers should be established:

1. To initiate proceedings for the definition of standards and qualities of consumer goods, and to make recommendations from time to time on the adoption of mandatory or legal standards, and to check the use of such standards in the labeling of consumer goods.
2. To conduct research and to collect and publish information of value to consumers.
3. To represent the consumer before regulatory bodies and in the administration of laws vitally affecting consumer interests.
4. To cooperate with an advisory interdepartmental committee for the coordination and extension of consumer services now being performed in the other departments.

1. *Standards.*—The consumer agency should carry on research in the field of standards and grades of consumer goods to determine what commodities present the greatest need and the greatest possibility for the development of grades and standards. It should initiate proceedings with other interested governmental and nongovernmental agencies for the definition of qualities upon which consumer standards and grades can be based and for the setting up of such grades and standards. It should utilize the National Bureau of Standards for necessary technical testings. It should promulgate and promote the use of such standards not in conflict with other provisions of the law. And from time to time it should recommend to the President and the Congress the establishment of additional legal and/or mandatory standards or grades for consumer goods.

2. *Educational and information services.*—The consumer agency should be enabled to conduct research into and collect information on matters affecting the consumer interest, both in order to carry out its functions adequately and in order to inform and advise consumers and organized consumer groups on matters affecting their interests. The agency should be empowered to prepare and publish material collected by itself or other governmental or nongovernmental agencies on matters affecting consumers. This should include an expansion of the Consumers' Guide, now confined to agricultural products.

3. *Representation of the Consumer interest.*—(a) The consumer agency should have the right to appear and be heard on behalf of consumers before all regulatory bodies whose decisions affect the consumer interest and to make or file complaints to or with any such body to institute hearings, investigations, or proceedings. The consumer agency should have the right to require such a regulatory body to use its subpoena power on behalf of consumers for the purpose of such proceedings.

(b) In addition to appearing before regulatory bodies, the consumer agency should also have the right, upon order of the President, to represent the consumer interest in the administration of those federal laws which affect the interests of consumers—the specific laws to be determined by the President. For this purpose the consumer agency should have access to relevant information of the Department administering such laws and for this purpose should be brought within and made subject to the rules governing confidential treatment of information in possession of such Department.

(c) It should be clearly understood that nothing in these provisions should in any way limit the rights of consumers or organized consumer groups to speak for, or on behalf of, consumers and to prepare and present their views directly on matters affecting the consumer interest.

4. A *consumers Advisory Committee*, including representatives of agencies of the government performing services to consumers should be established. The consumer agency should from time to time submit matters affecting the consumer interest to the committee for its advice and recommendations.

The Committee should have power to make recommendations to the President or the responsible Cabinet Officer on matters affecting consumers and to investigate and report on any subject pertaining to the improvement of the consumer services of the government.

"EXHIBIT No. 538," entered on p. 3413, appears in Hearings, Part V, appendix, p. 2298.

"EXHIBIT No. 539" appears in text on p. 3416.

"EXHIBIT No. 540" appears in text on p. 3419.

SUPPLEMENTAL DATA

The following letter and memoranda were entered in the record during hearings held May 26, 1939, and are printed at this point in connection with testimony *supra*, pp. 3425, 3436, and 3439.

EXHIBIT No. 639

U. S. DEPARTMENT OF COMMERCE,
NATIONAL BUREAU OF STANDARDS,
Washington, May 25, 1939.

Subject: Statement of Functions and Activities of the National Bureau of Standards.

HON. JOSEPH C. O'MAHONEY,
*Chairman, Temporary National Economic Committee,
Senate Office Building, Washington, D. C.*

MY DEAR SENATOR: In compliance with your request made to our Mr. R. A. Martino during the recent consumer hearings before the Temporary National Economic Committee, I am pleased to transmit herewith a statement concerning the functions and activities of the National Bureau of Standards. The statement covers in a general way some of the more important activities being carried on by the Bureau in the public interest.

There is also being sent herewith a statement relative to remarks made by Mr. George E. Mumma, representative of Sears, Roebuck and Company, Chicago, Ill. This matter relates to a letter addressed by Mr. Mumma to the National Bureau of Standards under date of October 26, 1938, requesting it to establish a rating method for hot-air furnaces, and this Bureau's reply dated November 3, 1938.

During the course of Mr. Martino's testimony before the Committee, Mr. D. E. Montgomery requested an explanation relative to lack of washability and color fastness requirements in Commercial Standard CS 16-29 for Wall Paper. Mr. Martino was not prepared to reply specifically to Mr. Montgomery's question, for the reason that he did not have documentary evidence before him at the time. In order that the members of the Committee may have a complete picture of the development and establishment of the commercial standard for wall paper, I am forwarding herewith a detailed statement, with special reference to washability and color fastness requirements referred to by Mr. Montgomery. The subject is also referred to in the transcript of the record.

If you desire more specific or detailed information concerning the functions and activities of the National Bureau of Standards, I shall be glad to cooperate with you in every way possible.

Respectfully,

LYMAN J. BRIGGS, *Director.*

FUNCTIONS AND ACTIVITIES OF THE NATIONAL BUREAU OF STANDARDS, UNITED STATES DEPARTMENT OF COMMERCE

The National Bureau of Standards is charged by law with "the custody of the standards; the comparison of the standards used in scientific investigations, engineering, manufacturing, commerce, and educational institutions with the standards adopted or recognized by the government, the construction, when necessary, of standards, their multiples and subdivisions, the testing and calibration of standard measuring apparatus; the solution of problems which arise in connection with standards, the determination of physical constants and the properties of materials, when such data are of great importance of scientific or manufacturing interests and are not to be obtained of sufficient accuracy elsewhere.

"The Bureau shall exercise its functions for the Government of the United States; or for any scientific society, educational institution, firm, corporation, or individual within the United States engaged in manufacturing or other pursuits requiring the use of standards or standard measuring instruments."

FUNCTIONS

The Bureau's functions are exercised for the Federal and State governments, and, subject to reasonable fees, the general public.

Its unique research and testing facilities are used to discover and evaluate material standards and to solve basic technical problems.

The Bureau's work on standards of measurement is designed to assist in the standardization of containers and products, in promoting systematic inspection of trade weights and measures, and facilitate research in science and technology. The establishment of more precise values for the standard constants furnishes an exact basis for scientific experiment and design and makes possible the efficient technical control of industrial processes.

The Bureau's work on standards of quality sets up attainable standards and test methods to assure high utility in the products of industry and furnishes a scientific basis for fair dealing by promoting truthful branding and advertising.

The Bureau likewise develops standards of performance; that is, specifications for the operative efficiency or accuracy of machines or devices. These are numerical statements of speed, uniformity, durability, output, economy, and other factors which together define the net efficiency of an appliance or machine. The ultimate purpose is to make exact knowledge the basis of the buyer's choice and to clarify the understanding between the manufacturer, distributor, retailer, and consumer.

Another function of the National Bureau of Standards of very general interest is the development of standards of practice; that is, collection of data and formulation of codes of practice for public utilities and other services. These codes are prepared in cooperation with the technical and commercial agencies concerned, and relate to the technical regulation of construction, installation, and operation. They are necessarily based upon standards of measurement, standards of quality, and standards of performance. The purpose of such work is to afford a single impersonal standard of practice mutually agreed upon by all concerned and clearly defined in measurable terms.

The Bureau cooperates with tax-supported purchasing agencies, industries, and national organizations in developing specifications and facilitating their use; it encourages the application of the latest developments in the utilization and standardization of building materials, and in the development of engineering and safety codes, simplified practice recommendations, and commercial standards of quality and performance.

RESEARCH ASSOCIATE PLAN

Frequently laboratory procedure must be supplemented with the skill and experience of practical craftsmen, if outstanding results are to be obtained. In situations of that sort the desired objective is attained under the Research Associate Plan of the Bureau. A specific group—manufacturers, distributors, or consumers—usually through its recognized national association, maintains its own technicians in the laboratories and shops of the Bureau under the supervision and regular procedure of the Bureau, for the purpose of research in a field of mutual concern. The interested groups and the Bureau are thereby brought into close and cordial working relations, with the results of the joint

effort made available to these groups and the public. At the present time there are more than 60 such research associates at the Bureau, representing various fields.

An examination of the lists of projects upon which research associates are now working at the Bureau discloses the fact that about 44 percent of the research associates receive all or part of their pay from organizations that are interested in the research problems from the standpoint of the consumer rather than the producer.

Several examples of the practical operation of this cooperative arrangement will serve to illustrate the work under the research associate plan.

Motor fuels present many difficult problems which involve both the producers of fuels and the builders of motor vehicles in which they are used. The National Bureau of Standards has for years been carrying on a triangular research with several national organizations for the purpose of reaching a solution to problems which will be mutually beneficial for all concerned. Since the Federal Government itself is one of the largest consumers of motor fuels, its interests in this respect are almost identical with those of industry and the public.

Another research which is worth mentioning, and one which affects everyone, has to do with human teeth. Since 1928 an extensive research program has been maintained in cooperation with the American Dental Association. Current results of this research are made available to the profession. Dental amalgam fillings have been used for more than 100 years, but it is only recently that the dentist has been advised on its two greatest defects—excessive shrinkage and flow. The dental research program which is a continuing one at the Bureau, has attacked these defects, and rated manufacturers' products, with the result that defective amalgams have been practically driven from the market.

SOME BUREAU ACTIVITIES

Bureau activities cover many subjects which are of interest to industry, government, and the consuming public. They embrace various fields, such as electricity, weights and measures, heat and power, optics, chemistry, mechanics and sound, organic and fibrous materials, metallurgy, clay and silicate products, simplified practice, trade standards, and codes and specifications.

The following are some typical examples of the work now in progress:

- (1) Aid to State governments on technical details of weights and measures inspection service.
- (2) Investigation of railroad track scales, mine scales; motor truck and other large scales used principally for interstate shipments.
- (3) Preparation, analysis, and certification of the composition of technical materials.
- (4) Investigations of fire resistance of building materials.
- (5) Determination of the properties of stone, clays, cement, and other structural materials, and the formulation of building codes and researches to promote, improve, and make possible less expensive building construction.
- (6) Development of standards of quality and methods of measurement of textiles, paper, leather, rubber, and organic plastics.
- (7) Tests of paint, varnish, soap, ink, and other supplies for the Government services.
- (8) Study of ceramic materials and processes used in their manufacture.
- (9) Development of test methods to insure compliance with specifications, and simplification of varieties of products.

TESTING AND INSPECTION FOR GOVERNMENTAL AGENCIES

The law requires that the National Bureau of Standards carry out investigations and tests for the Federal and State Governments, and for many years the Bureau has served as a testing and research laboratory for practically every branch of the Government service.

The testing of scientific apparatus, materials, and supplies by the Bureau for other Government departments and for the various State governments is widely appreciated and utilized, and requests for the Bureau's assistance in such matters are steadily increasing.

Another important service is the calibration of instruments and apparatus for Federal and State Governments in terms of the national standards.

Commodities purchased by the various departments and establishments of the Federal Government, excepting foods, drugs, and cosmetics, are tested by the National Bureau of Standards to determine whether they comply with

the requirements of the specifications on which they are purchased. This gives the Bureau an unusual opportunity to observe how buying under specifications works out in practice. The experience of the National Bureau of Standards in this field is available in the preparation of performance standards.

FEDERAL SPECIFICATIONS

The Federal Government is the largest single purchaser of consumer goods in this country. Its purchases are made on the basis of Federal specifications, of which there are over 1,200 now in use. These specifications are prepared by more than 75 interdepartmental committees made up of technical men drawn from all branches of the Government working under the general direction of the Federal Specifications Executive Committee. Members of the staff of the National Bureau of Standards take an active part in the work of many of these technical committees, except those engaged in the preparation of specifications for foods and drugs. In this way, the results of the investigations and tests made in the Bureau's laboratories are made available to these technical committees in the formulation of Federal specifications. All Federal specifications prepared by the various technical committees are submitted by the Chairman of the Federal Specifications Executive Committee (who is the Director of the National Bureau of Standards) to the Director of Procurement for approval, after which they are printed and officially promulgated by the Director of Procurement for use by the several departments and establishments of the Federal Government. They are available to the public at large by purchase from the Superintendent of Documents, Government Printing Office.

Considered as a whole, the more than 1,200 specifications already promulgated represent the best group of commodity specifications thus far compiled.

In many cases the products of industries have been improved as a direct result of the investigations made in connection with the preparation of Federal specifications. Much of the information contained in many of these specifications can be utilized in the preparation of consumer performance standards.

TESTING AT THE NATIONAL BUREAU OF STANDARDS IN RELATION TO OVER-THE-COUNTER BUYING

Some people have been led to believe that because the National Bureau of Standards does a large amount of testing for the Government, it should be in a position to say which is the best of any group of products, or to arrange these products in order of excellence. A glance at the testing procedure actually followed will show that it does not give this information, and that the Bureau's knowledge of a whole line of competing products is necessarily very limited.

Each specification lists the required properties of the article which is being purchased. In supplying rope, for example, the requirements of the specification as regards the kind of fiber, the diameter, the weight per foot, the oil content and the breaking strength must be met. No brands or trade names are used in the specification and any manufacturer who can supply the article with the required characteristics is free to bid. This eliminates favoritism and promotes free competition.

The order goes to the lowest bidder, and the goods are tested after delivery to determine whether or not they meet the specifications. A large amount of testing of this kind is carried out for the Federal Government by the National Bureau of Standards. If the material meets the required tests this closes the transaction. If not, the procedure is repeated with the next lowest bidder.

It will thus be seen that in a transaction involving bids from perhaps a dozen manufacturers the product of only one or two is actually tested. This saves an enormous amount of time and labor, but gives little or no information about the relative value of the products of the various manufacturers. It does not tell which is the best. It says only that a product has been found which meets the specification—that it is good enough for the Government's requirements. The award may change with the next order for the same commodity. New bidders may compete or prices change relative to earlier bids.

The Bureau has occasionally been urged to extend its tests to include whole lines of competing products, and to make the results of its tests available to consumers. The Bureau has neither authority nor funds to do this. Bills which would authorize work of this kind have been introduced in Congress, but they have not as yet found congressional favor.

WEIGHTS AND MEASURES

The Bureau of Standards renders an important nation-wide service to the consumer through the indirect standardization of devices used in weighing and measuring commodities purchased by over-the-counter buyers. The Bureau is the custodian of the national standards of weight and measure; it tests, on the one hand, the control standards which govern the manufacture of commercial weighing and measuring devices, and on the other hand, the reference standards of the States upon which their official tests of commercial devices are based. The Bureau exercises no regulatory powers along weights and measures lines, such supervision having been left by the Congress almost exclusively to the jurisdiction of the States; however, by cooperative action the Bureau promotes uniformity of weights and measures laws and administration throughout the country, and serves as a clearing house for information on this subject.

The Bureau's work on weights and measures led to the formation of the National Conference of Weights and Measures which is composed of State and local officials engaged in the inspection of weights and measures and in the enforcement of laws and regulations on the subject. Although it is an unofficial organization with no direct authority to enforce its recommendations, the Conference exerts a powerful influence on weights and measures affairs, largely through the adoption of codes and specifications, tolerances, and regulations for commercial weighing and measuring devices which are recommended to the States for official promulgation. These codes are published by the Bureau from time to time.

The National Conference seeks to place weights and measures administration on a uniform basis throughout the country. It looks toward adopting the most efficient methods for carrying on all phases of the work. Its annual meetings held at the National Bureau of Standards bring together officials and others interested in weights and measures matters from all sections of the country for discussion of the problems and interchange of ideas. Reports of the proceedings of each meeting of the National Conference are published in the Miscellaneous Series of the Bureau.

Since 1914 the Bureau has been conducting field tests of railway track scales such as are used for the weighing of railway freight cars; these tests have played an important part in the improvement effected during the past two decades in the accuracy of these large scales, the weights from which are used not only for assessing freight charges for rail transportation but also as the basis of sale for goods sold in carload lots. Three railway track scale testing equipments are maintained in service by the Bureau, with which more than 1,000 tests are made annually.

In 1938 the Bureau inaugurated a program of testing vehicle scales (wagon and motortruck scales) in cooperation with the States. The majority of the States are without adequate equipment with which to test vehicle scales. The primary purpose of the Bureau program is to supply each State not having such equipment, with authoritative data on the performance of a representative number of vehicle scales in use in the State; these data may be used in supporting a request for funds for the procurement and operation of suitable testing apparatus for this very important class of commercial weighing devices. On October 1, 1938, testing schedules had been completed in nineteen States, and approximately 1,200 scales were tested and reported upon individually to both scale owners and the operating officials.

TEXTILES

Textile studies at the National Bureau of Standards are concerned with a variety of problems of interest to the consumer as well as the manufacturer. They range from studies of the ultimate nature of the fibers themselves, through investigations of the relation of the yarn and fabric construction and finish, to the properties of the finished product, and include studies of utilization, storage, and maintenance. Many of these studies have led to the development of standards, specifications, and test methods which are utilized by manufacturers and large department stores maintaining testing laboratories of their own. Some of the subjects to which the Bureau has given consideration in the textile field include: Carpets, cotton textiles, dress fabrics, dry cleaning solvents, gloves, hosiery, silk textiles, underwear, and waterproofed fabrics.

To illustrate the variety and scope of the Bureau's activities with reference to textiles, there are set forth below some examples of its studies that affect the consumer most directly.

The wear of carpets of known construction with and without underlays was studied with the aid of a carpet wear testing machine developed at the Bureau. This machine produces the bending, slipping, twisting, and compression of the pile that takes place when a carpet is walked upon. The durability of a carpet was found to be increased materially by increase in density or height of pile and by the use of underlays. This machine is being used by a number of carpet manufacturers in improving their processes and products.

In order to know how to make cotton textiles that will meet the requirements of users with respect to such properties as strength, stretch, tear resistance, weight, and air permeability, it is necessary to know how these properties vary with changes in the size and twist of yarns and with the way the yarns are woven to form the cloth. Systematic studies of these interrelationships have been made at the Bureau. In addition, the conditions of mercerizing cotton to obtain maximum strength has been investigated. Light-weight cotton fabrics having maximum strength per unit weight for aeronautical purposes have been developed.

In cooperation with the American Home Economics Association, a study of the serviceability of 69 silk dress fabrics was made. Home-economics students located in different parts of the United States purchased silk fabrics in local stores, made dresses from them, and observed the performance of the dresses in service. Samples of the new material and the worn dresses were analyzed at the Bureau. Failures in service were found due to unsatisfactory color fastness to light, laundering, or perspiration; slippage of yarns at the seams and in the fabric, particularly across the shoulders and hips; inadequate strength; and poor aging characteristics.

The tendency of yarns to slip in fabrics, as indicated above, is a frequent cause of dissatisfaction. In cooperation with the American Society for Testing Materials, a method for measuring this property has been developed.

In view of the difficulties experienced by drycleaners in obtaining a suitable solvent for drycleaning purposes, and of the fire hazard, often resulting in property damage and loss of life, the National Association of Dyers and Cleaners, in cooperation with the Bureau, made a study of the relative merits of the drycleaning solvents, carbon tetrachloride, Stoddard solvent, and trichloroethylene. The effects of the solvents on fabrics, the stability of the solvents, their detergent efficiency, and their toxicity were considered. All of the solvents examined were found to be satisfactory when used under suitable conditions.

At the request of the General Federation of Women's Clubs, methods were developed for testing women's washable cotton gloves for shrinkage due to laundering, strength at seams, and resistance to abrasion. The results of the tests on a variety of different types of gloves indicate that numerical limits for shrinkage may not be necessary. The data obtained afford some basis for selecting tentative minimum values for seam strength and resistance to abrasion, but tests of many more gloves would be necessary to establish minimum standards on a sound basis.

Also, at the request of the General Federation of Women's Clubs, a hosiery-testing machine was developed to stimulate the forces acting on a stocking at the knee and garter clasps in use. The applicability of this machine to the evaluation of variations in knitting, degumming, dyeing, finishing, laundering, and aging has been demonstrated.

A survey was made of women's full-fashioned silk hosiery from retail stores throughout the United States to provide a basis for a performance specification. The brand, retail price, appearance, and construction were found to be inadequate guides to the performance of stockings as indicated by the hosiery testing machine.

Standard methods of measuring and standard measurements for men's, women's, and children's hosiery are provided in Commercial Standard CS46 for Hosiery Lengths and Sizes, which has been accepted by the industry for guidance of producers, distributors, and users. This standard is also intended to eliminate confusion resulting from a diversity of measurements and methods, and to provide a uniform basis for guaranteeing lengths and sizes of hosiery.

When laundered cotton fabrics are dried outdoors during the winter, particularly in New England, they frequently undergo excessive deterioration of a type called "winter damage." An investigation of the trouble showed that it was due to sulfuric acid formed in the damp fabric by oxidation of atmospheric sulfur dioxide, and that the damage could be remedied by using a small amount of calcium carbonate in the final rinse water.

There has been developed an accelerated aging test for silks which makes it possible to predict how silk, and particularly weighted silk, will withstand the deteriorative effects of light, heat, and moist air, which are the agencies largely responsible for its deterioration in service. It furnishes a laboratory method for indicating the relative stability of different silk fabrics.

The effect of light on silk, untreated and treated with dilute acids and alkalis, was studied. The results show that the stability of silk in light is dependent upon the acidity or alkalinity of the finishing solutions.

The trade practice ruling of the Federal Trade Commission regarding the labeling of weighted silk textiles, together with the widespread interest of consumer groups in the amount of weighting in silk fabrics, led to the development of a method for analyzing weighted silk fabrics.

Standard sizes for knit and woven underwear were developed at the Bureau through a research associateship established by the Underwear Institute. These sizes are in general use in the industry.

The Bureau has also cooperated with the Underwear Institute in a study of the properties of underwear fabrics made in a variety of weights, thicknesses, and constructions from cotton, wool, silk, rayon, and combinations of these fibers. The results of this study furnish data on representative underwear fabrics relative to the properties that appear important from the standpoint of comfort and health. The relative warmth, air permeability, thickness, weight, "softness," and "smoothness" for 97 fabrics were determined.

The service to be expected from wool textiles depends to a considerable extent on the quality of the wool used and on the treatments given the wool in the process of manufacture. Wool that has been exposed to strong light for long periods of time, or to certain bleaching, lustering, or dyeing processes, may undergo incipient damage that is not disclosed by inspection of the material. These effects have been studied and methods for determining the susceptibility of wool to deterioration in use have been developed. They are being applied by the manufacturer of wool textiles to the improvement of his processes.

BUILDING MATERIALS RESEARCH

Much interest is evidenced at the present time in the movement going forward in the development of better housing facilities throughout the country, particularly with reference to low-cost housing. At the instance of the Central Housing Committee, composed of representatives of Federal agencies interested in housing matters, the National Bureau of Standards was selected as the agency to conduct investigations and tests on the physical properties of materials, except wood, entering into housing construction.

It is believed that the results of the present program have fully demonstrated the value of this type of research on housing not only to the government housing agencies but also to the architects, the building industry, and the public.

Widespread interest has been shown in the reports which are now appearing in printed form and available to all groups interested in housing. Some of the benefits to be derived by these groups may be listed as follows:

1. *Factual information* is being developed with regard to the *actual performance of building materials* by an agency which has no commercial interest in any material or group of materials and which is *not prejudiced* for or against any material.

2. The information developed is based on *objective tests which may be repeated by any competent engineer*. The development of these objective methods of measurement is essential to progress in housing.

3. The way to the use of *performance standards in building codes* is being opened. The substitution of performance standards for descriptions of particular types of construction will accelerate the introduction of better and cheaper methods.

4. *Laboratory studies of failures* point the way to methods of successful use of building materials, and demonstrate that many failures are due to *improper application rather than to any inherent defect* in the materials themselves. There are no perfect materials suitable for all applications.

Many of the agencies have found it practicable to make decisions on the basis of objective tests by the Bureau and other pertinent data rather than on individual experience, perhaps satisfactory in some cases, but not necessarily of general application.

Some specific examples of results of the building materials research program which lead to a reduction of cost are set forth herewith.

Methods have been developed for the successful application of plaster on fiber insulating lath. Thus, a single material serves as plaster base and as thermal insulation and it is possible to obtain a specified degree of insulation at lower cost. The research also indicated that the plaster must be a strong plaster and at least one-half inch thick if cracking of the plaster is to be avoided.

Structural tests have shown the possibilities of using fiber insulating boards as sheathing. Here again one material serves two functions and the cost of obtaining a specified thermal insulation is reduced.

In cooperation with various manufacturers of masonry materials, methods of constructing masonry walls of less material and of less costly materials, such as cinder block, concrete block, tile, etc., either singly or in combination, have been investigated. It has been determined that 8-inch walls may often be substituted for 12-inch walls and that the cavity type of construction offers opportunity for obtaining a given performance as to structural strength and resistance to rain penetration at lower cost.

The results of studies of mortars in relation to building walls which prevent the penetration of rain have been incorporated in the specifications for new housing projects. The maintenance and repair costs of these structures may be expected to be considerably reduced.

The results of research have prevented the unnecessary expenditure of money on plasticizers and other admixtures in mortars.

Accelerated aging tests on wall boards give the basis for a specification for obtaining a material of longer life at the same cost.

In many localities there are legal requirements as to fire resistance. Research has shown how to secure a given fire resistance at lower cost. A method recently developed is the use of incombustible fillings. In a recent housing project, the required resistance was obtained by filling the partition around a stair enclosed with scrap brick, mortar, and plaster. In other cases partition walls filled with mineral wool and plastered with gypsum plaster could be used instead of tile partitions. By the use of incombustible fillings, the field of application of the less-expensive wooden construction can be extended.

In cooperation with manufacturers, several types of fire-resistant floor construction, which are less expensive than reinforced concrete slabs, have been studied.

Studies of paints by practical performance tests make possible the avoidance of unnecessarily expensive materials. The relative merits of various types of paints and pretreatments for sheet steel, both galvanized and ungalvanized, have been determined. The work on cement-water paints is expected to lead to formulae by which any contractor may mix satisfactory paint on the job from relatively inexpensive materials. Research has already shown that these paints properly applied are a reasonably satisfactory means of waterproofing leaky masonry walls.

Formulae for satisfactory nonproprietary caulking compounds have been developed.

Tests of heating equipment enabled a satisfactory evaluation of costs of the equipment. In recent tests, one class of devices was found to be considerably overrated so that the bids including that type did not correspond to the same actual heating capacity as bids on other types. An oil-burning combination domestic hot-water supply and hot-water heating system was found satisfactory for small houses in a recent project.

The use of 3-inch soil stacks in the plumbing systems of small houses rather than 4-inch stacks has been found entirely satisfactory. Simplified piping systems have been developed for small houses and apartment houses. The adequacy of various methods of protection against the back flow of polluted water into the water supply system has been studied. All contribute to cost reduction, but major cost reductions in this field are to be expected only with prefabricated equipment.

The Bureau cooperates with industry to eliminate superfluous sizes and varieties of building materials, avoiding waste and reducing costs. Recent recommendations cover concrete building units, lumber, and roofing materials.

The Bureau assists industry in the development and establishment of commercial standards of quality for building materials. Recent work has covered stock doors, windows and frames, plywood, and hardwood paneling, trim, and molding.

The Bureau takes an active part in building code revision and modernization. It lends its influence toward the use of performance requirements and

toward setting the requirements only as high as the safety and health of the public require. Placing the requirements on a performance basis makes possible the use of lower cost methods of giving the performance as soon as they are developed.

TECHNICAL INFORMATION ON BUILDING MATERIALS

There have also been issued by the National Bureau of Standards 61 releases covering investigations of the permanency of building materials, particularly with reference to durability of masonry, plaster, stucco, wallboard, floor coverings, roofing materials, thermal insulating materials, plumbing pipes and joints, and metals used in dwelling construction. These releases, known as technical information on building materials, which were prepared principally for the guidance of Federal agencies engaged in housing, are of direct interest also to the building industry and the public. They present, very briefly, essential facts developed through research work at the National Bureau of Standards and refer to longer publications where methods of investigation and results obtained are given in greater detail.

COMMERCIAL STANDARDS

The National Bureau of Standards aids business, distributor, and consumer groups in the voluntary establishment of grades, quality, and other standards as a national basis for purchasing, testing, marketing, and certification of manufactured commodities, other than foods, drugs, and cosmetics. These are known as commercial standards and set limitations below which the quality or grade of a commodity should not fall. These standards, of which there are now approximately 75, cover a wide range of commodities of interest to the consuming public. They include standards for wool and part wool blankets, Venetian blinds, wire cloth, colors for kitchen and bathroom accessories, disinfectant, Douglas fir plywood, testing and reporting of woven dress fabrics, dry cleaning solvent, mohair pile fabrics, clinical thermometers, oak flooring, fuel oils, marking of gold-filled and rolled-gold plate articles, marking of articles made of karat gold, household insecticide, mattresses for hospitals and institutions, mirrors, sizes of men's pajamas, wood shingles, and knit underwear.

Many of these commercial standards can well be adapted for use as consumer standards. As a matter of fact, serious consideration is being given to a number of these standards for recommendation as American standards by the Advisory Committee on Ultimate Consumer Goods, functioning under the procedure of the American Standards Association. This committee is composed of representatives of retail and consumer organizations and several agencies of the Federal Government.

SIMPLIFIED PRACTICE

The National Bureau of Standards serves also as a clearing house or centralizing agency through which manufacturer, distributor, and consumer groups cooperate in furthering a nation-wide program for the elimination of excessive and needless variety of sizes, types, and dimensions of manufactured products, which cause the processes of manufacturing and distribution to be more costly than necessary. From time to time these costs of avoidable waste are estimated by economists, and while there may exist a difference of opinion as to the magnitude of the costs, there is a consensus regarding the fact that there is always room for improvement.

It is important to note that simplification programs never originate with the Bureau, but, instead, are developed voluntarily by manufacturers, distributors, and consumers of the specific commodity. In this connection it is notable that several of the most successful undertakings have been initiated by distributors and consumers. The Bureau's function is purely cooperative, as a neutral coordinating body to assist in developing the best thought and practice in the production, sale, and use of manufactured articles.

Simplified practice offers itself as one means of reducing the costs of production and distribution. Successful application of simplified practice is dependent upon the degree of cooperation accorded by manufacturers, wholesalers, retailers, and consumers. The 173 simplified practice recommendations promulgated to date reflect admirably the excellent cooperation received from these groups.

Industry and Government are obvious beneficiaries of simplified practice. However, the ultimate consumer is also directly concerned in any program which results in saving money in the manufacture or distribution of the products he buys at retail. His interest in simplified practice is therefore direct, though too infrequently expressed or even realized. The benefits he gains from simplified practice accrue to him primarily through industrial competition. If a manufacturer reduces the total cost of his product, he may be able to retain a portion of the savings, but sooner or later he will take advantage of reduced costs to seek more business, through reduction in price, improvement in quality, or better service. The distributor does likewise, and the consumer gets the final benefit in price, quality, service, or otherwise.

STANDARDIZATION OF CAN SIZES

For a number of years the National Bureau of Standards has cooperated with manufacturers and users of different types of containers in connection with the development and promulgation of standard sizes of containers and packages.

A committee on the simplification of containers of the National Canners Association has been emphatic in its desire to be placed on record as in favor of eliminating the large variety in sizes of cans in order to minimize possible confusion among consumers in the purchase of canned goods.

In 1934, a list of 27 standard sizes was adopted by the canning industry for general use which resulted in the establishment of simplified practice recommendation R 155-34—Cans for Fruits and Vegetables.

After giving the recommended list of 27 standard sizes a trial for over two years, the members of the standing committee in charge of the recommendation decided that the original recommendation should be revised. As a basis for revising the list, the committee used data furnished by two leading can companies, covering sales for 1933, 1934, and 1935. Eleven of the sizes included in the original list of 27 recommended sizes were eliminated and five new sizes were included in the revised list, which resulted in a reduction from 27 to 21 standard sizes. The revised recommendation, as accepted by the industry, designated as Simplified Practice Recommendation R 155-37, was made effective in 1937.

To the end that the standardization of can sizes might be brought up to date and abreast of existing best practice in the packing and marketing of canned foods, and in order to eliminate consumer confusion in the purchase of canned goods, the National Canners Association requested the cooperation of the National Bureau of Standards in making a complete survey of the sizes of cans used for each product and the quantity of each product packed in each size of can during the year 1937. This survey has been completed and a report has been submitted to the National Canners Association.

The industry's committee on simplification of containers made a study of the report and has made an earnest effort to select a list of cans for each of the products that will eliminate confusion in buying and at the same time create a minimum of inconvenience to the industry. The list of recommended standard cans as selected by the committee was discussed and adopted unanimously at a meeting of the Board of Directors of the National Canners Association on May 18, 1939.

CERTIFICATION PLAN

From time to time the State and other public purchasing agents have sought the assistance of the United States Department of Commerce in the solution of their purchasing problems. As one means of aiding these tax-supported purchasing agencies in overcoming their difficulties in purchasing materials, equipment, and supplies, there was launched by the National Bureau of Standards, in 1925, the "certification plan." In accordance with this plan, there are compiled and distributed by the National Bureau of Standards to all interested tax-supported purchasing agents, lists of sources of supply of commodities covered by selected Federal specifications and commercial standards. These lists contain the names of responsible officers of firms who have indicated their willingness to certify to purchasers, upon request at the time of placing the contract, that the material supplied by them on contracts based on the selected specifications and standards does actually comply with the requirements and tests thereof and is so guaranteed by them.

As of May 15, 1939, there had been compiled by the Bureau 717 lists of willing-to-certify manufacturers relating to 663 Federal specifications and 54 commercial

standards, and representing a total of about 25,000 requests for listing from about 14,000 separate firms.

The reception given to the certification plan by many responsible manufacturers and representative trade associations has been very encouraging. It is being widely utilized by "public purchasers," that is, purchasers for the Federal, State, and municipal governments who are spending the money collected from the public in the form of taxes. It is also being welcomed by other large purchasers, whose requirements are of such magnitude as to justify the use of specifications.

Many of the specifications to which the certification plans has been, or will be, applied cover commodities of much interest to consumers.

QUALITY-GUARANTEEING LABELING PLAN

Since the use of specifications is not practicable for most consumers who buy goods sold in the over-the-counter trade, the National Bureau of Standards has done what it could to encourage the use of a procedure which would secure for the over-the-counter buyer the advantage of quality specifications similar to those which the Government utilizes.

About 13 years ago, as a supplement to the "certification plan," the National Bureau of Standards introduced a self-identifying quality-guaranteeing labeling plan to aid in passing along to the non-contract or over-the-counter buyer some of the benefits derived by the large-quantity purchasers who make use of nationally recognized specifications under the certification plan. In accordance with this plan, a firm desiring to bring effectively to the attention of the non-contract or "over-the-counter" buyers, at the time of making a purchase, commodities guaranteed to comply with the requirements of certain nationally recognized specifications, places on the individual commodities or their containers labels which definitely identify both the specification and the manufacturer or the trade association which holds itself responsible for the guarantee.

Labeling plans, in one form or another, have been in operation for many years, and identifying labels (some carrying guarantees) are being advocated by about 100 national technical societies and trade associations, many of whom maintain inspectors for making their labels effective.

The Bureau's investigations have revealed the fact that many firms manufacturing goods on the mass-production basis are willing to make use of quality-guaranteeing labels provided they can be assured of a sufficient demand for goods thus labeled.

There is already an encouraging movement in this direction. Certain individual manufacturers have stated that they are now using or planning to use quality-guaranteeing labels, or their equivalent, with goods manufactured to comply with Federal specifications for brooms, dental alloys, dry cells, fireproof safes, gypsum, ink (writing, colored and indelible), library paste, lime, linoleum, lumber, paint, paper (correspondence, carbon, blue print), pipe, Portland cement, rope, soap, textiles, and wall board.

It is believed that demands of consumers for quality labeling can be brought about to a very large extent through the extension of the Bureau's own labeling plan or similar ones to include whole lines of competing products. In this way, much of the confusion now existing concerning proper labeling of quality or grades can be eliminated.

CONSUMER PERFORMANCE STANDARDS

Through its contacts with Federal and other Governmental agencies, the National Bureau of Standards has been able to render much worth-while service to contract buyers, and its facilities are being used to the extent of its available funds and personnel to render a similar service to over-the-counter buyers. The Bureau is particularly well qualified to develop specifications for a wide variety of goods entering the over-the-counter trade, and to aid consumers in securing commodities identified as complying with the specification requirements.

Experience has shown that in preparing a largely increased number of performance specifications for such goods, the Bureau would receive the very helpful cooperation of interested consumer and distributor groups, which would be chiefly instrumental in selecting the commodities to be covered by specifications, and in educating consumers to purchase quality-guaranteed goods. However, the Bureau would give adequate consideration to the limitations in the availability of raw materials and manufacturing facilities throughout the

country. The specifications, themselves, would include such features as are essential to insure reasonable consumer satisfaction. They would differ somewhat from Federal specifications in covering many instead of few grades, and would include a much wider variety of commodities.

Because of the highly efficient personnel and laboratory facilities for conducting scientific investigations and testing commodities (except food and drugs), and because of its contacts with consumer groups, distributor organizations, manufacturing concerns, as well as cooperation with technical societies and trade associations, the National Bureau of Standards possesses the necessary machinery for the development of commodity standards or specifications for consumer use.

The Bureau's knowledge and experience of products, both as to service requirements and performance characteristics, places it in a unique position to develop the necessary kind of information. Its services in the public interest should be utilized to the fullest extent and in no way duplicated.

IN RE STATEMENT OF GEORGE E. MUMMA, SEARS, ROEBUCK & COMPANY, CHICAGO, ILL., RELATIVE TO LETTER OF NOVEMBER 3, 1939, FROM THE NATIONAL BUREAU OF STANDARDS

On October 26, 1938, Mr. George E. Mumma, of Sears, Roebuck and Company, wrote to the National Bureau of Standards regarding the capacity rating of warm-air furnaces. Mr. Mumma concluded his letter as follows:

"I feel that if there is a recognized and approved method of rating as established by the Bureau of Standards, we will have the means to force our competition to conform to an accepted standard in making claims for its rating of warm air units."

To this letter the National Bureau of Standards replied on November 3, 1938, as follows:

"In reply to your letter of October 26, we regret to say that this Bureau is probably not in a position to assist you in your present problem. The Bureau has not yet had occasion to establish a rating method for such furnaces, and, although much attention would be given to the work of the University of Illinois and to that of other authorities were the Bureau to become involved in the problem, we would not feel justified in underwriting any test method for general use without corroborative experimental work of our own."

The Bureau now has under way studies of methods of testing and rating heating appliances and has done considerable work on radiators, convectors, and heating boilers. An experimental structure has been designed for practical tests of heating plants intended for small houses and work in this structure will be under way during the coming year. This work is being conducted under a three-year program which, under present legislation, will terminate in June, 1940. The problem of rating warm air furnaces has been given some consideration and can be undertaken if the program is continued.

It is believed that under present conditions the matter can be handled more expeditiously under the commercial standards service being offered by the National Bureau of Standards. If the industry is prepared and desires to have the Bureau determine the acceptability of its standards to distributors and consumers, under the commercial standards procedure, the standard proposed by the industry will be submitted to other interested groups and individuals to determine acceptability.

IN RE MR. D. E. MONTGOMERY'S REMARKS ON COMMERCIAL STANDARD FOR WALLPAPER

During the course of the testimony of Mr. R. A. Martino, there was called to his attention by Mr. D. E. Montgomery, the commercial standard for wallpaper. Mr. Montgomery referred to washability and color fastness requirements which he inferred had not been included in the commercial standard.

An examination of the record concerning the establishment of the commercial standard shows the following facts:

Pursuant to a request from the Wallpaper Manufacturers Association of the U. S. A., a general conference of manufacturers, distributors, users of wallpaper and others generally interested was held on May 25, 1929, at the Commerce Building, Washington, D. C., to consider the establishment of a minimum

commercial standard of quality for wallpaper on the basis of a preliminary draft prepared by the Wallpaper Manufacturers Association.

On June 12, 1929, a report of the general conference on the commercial standardization of wallpaper held on May 25 was distributed to manufacturers, distributors, and users of wallpaper.

On July 29, 1929, a memorandum was sent to manufacturers, distributors, and users of wallpaper announcing that the National Bureau of Standards had received signed acceptances from a sufficient number of manufacturers, distributors, and users to insure the general adoption of the standard by the industry as a whole.

The standard became effective for new production on August 1, 1929.

So far as the record reveals, there was not discussed at the general conference the requirements for "washability" by any of the representatives of the interested groups present. Consequently, no reference was made to it in the commercial standard.

With reference to Mr. Montgomery's statement relative to lack of "color fastness" requirements, there is quoted herein the following paragraph referred to in the official document Commercial Standards CS 16-29 for Wall Paper:

"Color Fastness.—All printed papers, grounds, backgrounds, or ink embossed; in other words, all finished printed wall paper shall be resistant to light to the extent that they will show no discoloration or fading when exposed with printed side toward the rays of a carbon arc lamp, such as the Fade-Ometer or its equivalent, for a period of 24 hours. During this test the temperature of the atmosphere adjacent to the paper shall not be allowed to exceed 40° C. (104° F.)."

Since the establishment of the Commercial Standard for Wall Paper, the subject of "washability" requirements was discussed on several occasions and the matter was referred by the National Bureau of Standards to the standing committee in charge of the standard for consideration.

It is the understanding of the National Bureau of Standards that the industry is giving serious consideration looking towards the establishment of a new standard for wallpaper which will include requirements for washability and other essential elements as a protection to the ultimate user of wallpaper.

The following letter and memorandum were entered in the record during hearings held June 7, 1939, and are printed at this point in connection with testimony, supra, p. 3366.

EXHIBIT No. 660

UNITED STATES DEPARTMENT OF AGRICULTURE,
AGRICULTURAL ADJUSTMENT ADMINISTRATION,
Washington, D. C., May 29, 1939.

HON. JOSEPH C. O'MAHONEY,

Chairman, Temporary National Economic Committee,

U. S. Senate.

DEAR SENATOR O'MAHONEY: I am forwarding herewith memorandum on the Standard Container Acts of 1916 and 1928 and the Standard Barrel Act as requested by you at hearings before the Committee on May 11. The memorandum outlines the provisions of these acts and discusses briefly, as you requested, conditions which brought about their enactment and the changes in container practice which they have effected. The latter I have obtained from persons in the Department and the National Bureau of Standards familiar with the history and enforcement of these acts.

I am also enclosing copies of pending bills referred to in the memorandum, and copies of two Consumers' Guide articles on the subject of container sizes.¹

¹ Referred to above are the following exhibits which are on file with the committee:

1. Bills H. R. 4402 and 5530, 76th Cong., 1st sess., fixing standard types of containers for fruits and vegetables.
2. Farmers' Bulletin #1821. U. S. Department of Agriculture, April 1939, dealing with containers for fruits and vegetables.
3. Consumers' Guide, April 25, 1938, Vol. V, No. 2, re container sizes.
4. Six photographs from Bureau of Agricultural Economics of sizes and types of small fruit and vegetable baskets, in use before passage of Standard Container Act in 1916.
5. Excerpt from Consumers' Guide for May 15, 1939, re standardizing standards.

Existing standard container acts appear to have removed many confusing and deceptive types of containers from the usual channels of trade. They do not apply, however, to cans, glass containers, paper or wooden boxes and containers, sacks and bags, crates, cellophane packages of various types, and, when used in intrastate transactions, Climax baskets, till baskets, and berry boxes. Most of the foods and farm products which consumers buy, other than bulk purchases, come to them in containers of these unstandardized types. The resulting variety and confusion were exhibited to your Committee by the witnesses appearing on May 10 and 11.

Respectfully yours,

D. E. MONTGOMERY, *Consumers' Counsel.*

Enclosures.

UNITED STATES DEPARTMENT OF AGRICULTURE,
AGRICULTURAL ADJUSTMENT ADMINISTRATION,
Washington, D. C., May 29, 1939.

To the Temporary National Economic Committee:

STANDARD CONTAINER ACTS OF 1916 AND 1928 AND THE STANDARD BARREL ACT

Memorandum submitted by D. E. Montgomery, Consumers' Counsel, A. A. A., in response to the request of the Chairman at the hearings on May 11, 1939.

I. THE STANDARD CONTAINER ACTS

Provisions of the Acts.—There are two acts establishing standard sizes for containers. The first is the Standard Container Act of 1916, which is an interstate commerce law and affects all transactions in interstate commerce. The second, the Standard Container Act of 1928, is a weights and measures law and affects all intrastate as well as interstate transactions. This latter act thus supersedes any State laws or ordinances which are in conflict with it.

The Act of 1916 (39 Stat., p. 673), which was approved on August 31, 1916, and became effective on November 1, 1917, establishes standard sizes (capacity) and dimensions of Climax (grape) baskets and standard sizes (capacity) of berry-boxes and till (small fruit and vegetable) baskets. The attached photographs show these standard sizes. The Act forbids the manufacture for shipment, the sale for shipment, or the shipment in interstate commerce of any Climax, berry, or till baskets except those which meet the standards established.

The Act of 1928 (45 Stat., p. 685), which was approved on May 21, 1928, and went into effect on November 1, 1929, establishes standard sizes (capacity) for hampers, round stave baskets (including "straight-side" or "tub" baskets), and splint or market baskets. These standard baskets are shown in the photographs attached. The act does not specify the dimensions for each of these standard size (capacity) baskets but instead requires all manufacturers of hampers, round stave baskets, and splint or market baskets to have their basket specifications approved by the enforcing agency, the Bureau of Agricultural Economics. The act forbids the manufacture, sale, and shipment of nonstandard size and nonapproved hampers, round stave and splint baskets, and authorizes seizure by the Secretary of Agriculture of any baskets of nonstandard size. It makes inoperative all State weight-per-bushel laws insofar as fruits and vegetables packed in baskets standardized by the law are concerned.

The Act of 1916 differs from the Act of 1928 in two important respects. First, it applies to interstate transactions only, whereas, the Act of 1928 covers all transactions. As a result, standard sizes are not established for berry boxes and till and Climax baskets which are used in intrastate transactions. Second, the Act of 1916 does not require manufacturers to have their standard-size containers approved by the Bureau of Agricultural Economics as does the Act of 1928. This is a question of some importance in the case of berry boxes and till baskets, because the Act of 1916 merely indicates the standard capacity but not the dimensions. As a result, there are many different shaped berry boxes and till baskets of the same capacity. This omission is not important in the case of Climax baskets, because the act specifies both the standard sizes and the dimensions.

Containers Not Covered By the Acts.—While the two acts require standard sizes for many of the important containers now in use, there is no Federal law standardizing sizes of other types of containers for foods and farm products.

These unstandardized containers, most of which are containers in which commodities are sold to consumers, are:

1. Cans.
2. Glass containers.
3. Paper and wooden boxes and cartons.
4. Sacks and bags.
5. Crates.
6. Cellophane-wrapped containers of various types
7. Climax and till baskets, and berry boxes, used in intrastate transactions.

Two bills designed to extend the principle of standardization to some of these types of containers and to consolidate existing container legislation have been introduced in the present Congress. These are H. R. 4402 and H. R. 5530, both by Congressman Somers.¹ Standard sizes for metal containers for canned fruits and vegetables and canned milk are established by H. R. 4402. H. R. 5530 repeals the Standard Container Acts of 1916 and 1928 and the Standard Barrel Act. It reenacts the standards established by those laws, extends the principle of standardization to all other types of fruit and vegetable containers such as drums, cartons, crates, boxes, and sacks, and provides that all such containers shall be made in accordance with specifications promulgated or approved by the Secretary of Agriculture. The bill also provides that containers for fruits and vegetables packed and sold by net weight or numerical count may be of dimensions and capacities other than the standards established provided they are not deceptive in appearance. The bill covers only fruit and vegetable containers, and not containers in which dry items, such as tea and soap, are packed.

Reasons for, and Sponsors of, the Acts.—The conditions which gave rise to the Standard Container Acts may be best illustrated by the attached photographs which show (1) the number of sizes and types of these kinds of containers in use prior to the establishment of standards, and (2) the limited number of standard sizes of these types now in use. The Standard Container Acts were sponsored by the manufacturers of packages and baskets, commission merchants, and farmers. In each case there was a desire to reduce the large number of containers which made trade in fruits and vegetables a complicated process.

The Act of 1916 was a combination of three bills having as their purpose the standardizing of berry boxes and of one other bill designed to fix standards for Climax baskets. The bill proposing standards for Climax baskets was initiated in the interest of basket manufacturers. There appears to have been no opposition to the measure at the hearings held on the bill. During the course of the hearings the following organizations appeared in support of the bill:

1. Michigan Association of Grape Shippers.
2. Fruit Growers' Union (Michigan).
3. National Basket & Package Association.
4. National League of Commission Merchants.
5. Congressman Hamilton representing the grape-growing section of Chautauqua, New York.

Soon after the enactment of the 1916 law, a movement was started to extend the same principle to the larger sizes of containers (hampers, round stave baskets, and splint baskets), the impetus apparently being furnished by the manufacturers, the National League of Commission Merchants, and the American Farm Bureau Federation. However, before its enactment in 1928, the measure seems to have had practically unanimous support, as indicated by the following list of organizations taken from the hearings on H. R. 5677 (69th Congress):

1. American Farm Bureau Federation.
2. International Apple Shippers' Association.
3. American Fruit & Vegetable Shippers' Association.
4. National Association of Basket and Fruit Package Manufacturers.
5. Western Fruit Jobbers of America.
6. National Fruit Committee.
7. National League of Commission Merchants.
8. American Hotel Association.
9. National Association of State Marketing Officials.
10. Conference for Simplification of Food Containers, held January 17, 1923, under auspices of Department of Commerce.

¹ Copies of both bills are on file with the committee.

11. Standard Container Manufacturers, Jacksonville, Florida.
12. Mississippi, Louisiana, and Alabama Hamper Manufacturers' Club.
13. Atlantic County, N. J., Board of Agriculture.
14. Burlington County, Board of Agriculture (New Jersey).
15. Maryland Farm Bureau Federation.
16. Maryland Chamber of Commerce.
17. New Jersey State Horticultural Society.

Method and Costs of Enforcement.—The enforcement of the Standard Container Acts always has been in the Department of Agriculture. The method of enforcement has been to cooperate with manufacturers, servicing their operations in such a way as to insure, so far as possible, the production of standard containers. For many years this was done through the voluntary submission of samples by manufacturers to the Bureau of Agricultural Economics in Washington. At the present time, however, enforcement is accomplished by tests made at the factory by the Bureau's representatives. The latter method is considered more effective because it insures that (1) samples tested are from stocks on hand waiting sale and not specially made samples, and (2) the products of every manufacturer will be tested periodically. These tests in the field also expedite the making of adjustments when found necessary.

It is not possible to estimate the cost of enforcing the Standard Container Acts up to and including the present fiscal year because the appropriations for enforcing these acts have been combined with the appropriation for the enforcement of the Produce Agency Act. The costs for these two activities have never been completely segregated or separated. For the year ending 1940, however, the budget estimate for Standard Container work is \$22,000.

Results.—The results of these standardization laws, in terms of current practice as compared with the practice before their enactment, is illustrated best by attached photographs which show marked reduction in the number of sizes of containers in common use. Because of these acts the number of sizes of berry boxes in common use has been reduced from 44 to 3; till or small fruit and vegetable baskets from 40 to 5; Climax or grape baskets from 31 to 4; splint or market baskets from more than 25 to 6; round-stave baskets from more than 20 to 9; and hampers from more than 75 to 9.

There has been no attempt to have these laws repealed despite the fact that the products of the basket-manufacturing industries are limited to certain standard sizes by these acts, whereas packages such as crates, boxes, and sacks are not subject to any size restrictions whatsoever. During recent years these competitive and unregulated containers have made serious inroads on the production and use of regulated baskets. As a result basket manufacturers feel that the existing laws are discriminatory in nature and place them in an unfair and disadvantageous competitive position. To correct the situation, however, they do not want to repeal the existing law but prefer to have the standardization principle extended to competing types of containers. This view is also shared by a large proportion of the fruit and vegetable growers and distributors and by some of the manufacturers of competing unregulated containers.

II. THE STANDARD BARREL ACT

Provisions of the Act.—The Standard Barrel Act (38 Stat. 1186) was approved on March 4, 1915, and became effective on July 1, 1916. This act establishes and fixes the dimensions of a standard barrel for fruits and vegetables and other dry commodities, and of a standard barrel for cranberries. It forbids the sale, offering, or exposing for sale of any barrels containing fruits, vegetables, or any other dry commodities when such barrels are not of the standard size or permitted subdivisions thereof. Since it is a weights and measures law, it applies to all intrastate and interstate transactions and supersedes any State laws or city ordinances in conflict with it. Regulations which have been promulgated under this act prescribe the capacities and the dimensions of subdivisions of the two standard barrels and the tolerances permitted for all sizes.

Reasons for and Sponsors of the Act.—Three conditions primarily were responsible for the Standard Barrel Act. First, the multiplicity of State standards for barrel sizes made it difficult for farmers to ship their products in interstate commerce. Second, the lack of a standard-size barrel for all products made it difficult for commission merchants to contract for shipments without seeing the container. And third, the lack of standard-size barrels gave rise to special size barrels used with the object of deceiving purchasers.

The Standard Barrel Act was sponsored by growers and commercial merchants. According to the testimony of Mr. A. W. French in the hearings held at the time that the bill was before the House of Representatives, the National League of Commission Merchants in the United States was largely responsible for the introduction of the bill. Other organizations which appeared in support of the bill at the hearings were the Western New York Fruit Growers Association, the Eastern Shore (Virginia) Produce Exchange, the International Apple Shippers Association, the Cape Cod (Massachusetts) Cranberry Growers Association, the Western Fruit Jobbers Association of America, and the American Cranberry Exchange. State weights and measures officials from a number of States including Tennessee, Iowa, New Jersey, Vermont, and New York also appeared in favor of the bill.

Method and Costs of Enforcement.—The Standard Barrel Act does not designate any specific enforcing agency and no funds for its enforcement have ever been appropriated. The act merely provides that tolerances shall be established by rules and regulations made by the Director of the Bureau of Standards. As a result of this provision the Bureau of Standards has set up rules and regulations and has administered the enforcement of the act.

Results.—The result of this legislation has been the adoption of one standard barrel for fruits and vegetables and other dry commodities and another standard barrel for cranberries in place of the multiple State standards for barrels which prevailed prior to 1916. While the law does not specifically give the Bureau of Standards authority to enforce its provisions, the Bureau reports that there has been little difficulty in the elimination of barrels which do not conform to the standard. Most of the violations of the law occurring at the present are in minor deviations resulting from technical difficulties in manufacture rather than from deliberate attempts to violate the law.

Respectfully submitted.

D. E. MONTGOMERY,
Consumers' Council.

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